14-1944

Teachers Appeal Verdict

Journal + Guide
Norfolk Va.

Court Rules Board Did Not Act Corruptly

4-22-44

By S. A. Haynes

NEWPORT NEWS—Judge Herbert G. Smith of the Corporation Court ruled last Friday afternoon that there was no evidence of corruption by the board of school trustees in the dismissal of three Negro principals and three high school instructors when their contracts were not renewed in May 1943, and therefore dismissed the suit of the Citizens Committee on Action on behalf of the teachers.

Counsel for the committee, Attorneys Walker and Walker, Leon A. Ransom of Washington, D. C., and A. L. Bivins, white, former chairman of the school board, noted an appeal. The trial lasted three days featured by many precedents and revelations.

COUNSEL COMMENDED

In ruling adversely against the teachers, Judge Smith complimented counsel for the plaintiffs for the able manner in which they presented their case within the limited grounds upon which it was admitted to court after the original petition was amended.

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Emphasizing again, as he did in the first hearing last summer, the jurist emphasized that the schools of Virginia are a law unto themselves, pointing out that the weakness of the law's scope in school matters was clearly indicated in the case which prohibits anyone from inquiring into "why" teachers are dismissed.

"It is unfortunate that there is no provision," said the judge, "that men and women who have served faithfully can be dismissed only for cause."

He made it plain that the court was not passing judgment on whether Dr. L. F. Palmer and the others should have been removed or whether the school board acted wisely, but rather on whether the evidence warrants charges of corruption.

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WARNING TO PALMER

In commenting on one of the main issues introduced as evidence by the plaintiffs, that, as he had testified, Dr. Palmer reported that in May 1942, Dr. Joseph H. Saunders, division superintendent of schools, called him to his office and told him that the board had instructed Dr. Saunders to tell him that unless he ceased his activities for equalization of salaries he would not be re-elected, Judge Smith said that there was no question in his mind of the integrity of both sides of the case, and the fact that they told different stories, "does not mean that one person is telling the truth and the other is not;" adding that he, himself, still does not know exactly why Dr. Palmer and the others were dismissed.

"Dr. Palmer is sincere," said the judge, "and I believe that he honestly believes what he said. At the same time, I can not believe that all of the school board would deny making a statement if it actually had been made. I can not follow the line of argument and believe that any of these men would come in here and tell an untruth."

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HIGHLIGHTS OF CASE

Highlights of the historic case were as follows: appearance of the five members of the school board, and the school clerk, S. D. Green on the witness stand, to be examined and cross-examined by counsel for the plaintiffs and by Acting City Attorney Charles E. Ford, counsel for the school board; brilliant and shrewd arguments and legal alertness over the admissibility of evidence; sharp exchanges between Attorney Ford and Attorney Ransom; a militant retort to Attorney Ford by Attorney W. R. Walker, senior counsel for the plaintiffs, who resented Mr. Ford's reference to plaintiffs' counsel as "young," "inexperienced," and "flamboyant"; presentation of minutes of the school board by plaintiffs' counsel revealing that election of city teachers in 1940 and 1941 was recorded as a group recommended for reelection by Dr. Saunders, with trustees voting them in as a block with "ayes" and "nays."

MISSING MINUTES

The minutes of a meeting held December 18, 1941, cited a letter from the then city attorney S. R. Buxton which informed the board that the decision of the U. S. Circuit Court in the Norfolk case indicated that there could be no legal basis for discriminating against the teacher's pay solely for reasons of color or race.

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Minutes of December 18 also recorded a meeting for December 22 with representatives of the teachers salary committee to discuss equalization, but search of the records showed that no minutes of this meeting appeared. Counsel for plaintiffs charged that they were deliberately omitted, whereupon Attorney Ford re-read the minutes to show that the meeting was with the board acting as a committee of the whole, and the school clerk testified that such meetings were not recorded as official board meetings.

Plaintiffs' counsel countered by introducing the board's by-laws which specify that all special meetings, such as the "star chamber" session which brought the charge of corruption into court, are required to be called at least 24 hours prior to such meetings. It was further revealed that the by-laws require that minutes be kept of all such special meetings restricted to one subject only. There are no minutes of the "committee" meeting at which the names were deleted from the recommended list.

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ANGLO-SAXON EVIDENCE

In rebuttal, Attorney Ford declared that not one bit of "Anglo-Saxon" evidence had been introduced to support Dr. Palmer's recollection of the December, 1941, meeting. He called back the trustees to the witness stand to categorically deny, individually and collectively, that the board told Dr. Saunders to warn Dr. Palmer as he said he was warned; and to deny in like manner that the activities of the dismissed principals and teachers in the salary equalization fight influenced their judgment in the matter.

Attorney Ford emphasized the good intentions of the board by exploring the testimony of Phillip W. Murray, trustee, that he warned the board not to be influenced by such activities in considering the nomination for reelection of the teachers.

Counsel for plaintiffs cross-examined Mr. Murray at length on the reasons why he thought it prudent to so warn the board, in an effort to prove the argument that the activities of the teachers in the salary equalization fight was a major factor in their dismissal.

FORMER PRINCIPALS

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The other principals, T. Roger Thompson and J. Rupert Picott, all testified as to their relations with Dr. Palmer while in the school system which were purely academic, and to their activities in the salary fight. Mrs. Irma Thompson, president of the Negro Teachers Association, and at present a teacher in the system, and William Miller, instructor in French at Huntington High School, also testified of their activities in the equalization fight.

Dr. William A. Robinson of Atlanta University, Dr. Luther P. Jackson of Virginia State College, and Dr. William M. Cooper of Hampton Institute, testified for the plaintiffs as experts as to the local, statewide, and national effect the dismissal of the principals and teachers had upon the public school system, and its influence upon public confidence.

Numerous exceptions to the court's ruling were taken by plaintiffs' counsel.

Supreme Court Rules Florida Peonage Law As Unconstitutional

Age-New York Negro

4-13-44

WASHINGTON, D. C.—The Supreme Court ruled as unconstitutional on Monday a Florida "peonage" law enacted in 1919 under which a Negro laborer was sent to jail for six days for lack of $100 to pay a fine imposed by the State Court as penalty for not working off $5 advanced to him by an employer.

A VICTORY

ANOTHER victory for Negroes in the fight against discriminatory labor organizations was won Wednesday when the New York State Court of Appeals ruled that the Railway Mail Association, a national organization of railway postal clerks, was a labor union and violated New York State laws in barring Negroes from membership.

The court upheld a decision of the Appellate Division which had reversed Justice William H. Murray, of the State Supreme Court in Troy, N. Y. Justice Murray had held that the association was a "fraternal beneficiary society."

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Action against the association was initiated after its New York City branch admitted Negroes to membership contrary to provisions of the association's constitution which limit membership to "members of the Caucasian race or native American Indians." The association sought to restrain Attorney General Nathaniel L. Goldstein from proceeding against it for violation of the State Civil Rights Law.

The opinion of the Court of Appeals, written by Chief Justice Irving Lehman, while not made public, upheld the Appellate Division decision which found that the association was classified as a labor union in the official bulletin of the United States Department of Labor and that since 1927 it had been an affiliate of the American Federation of Labor.

Speaking of the association's action, Attorney General Goldstein declared it "was a challenge to the entire effectiveness of anti-racial discrimination laws of the State and this decision is of major importance to all persons, irrespective of race, color or religion, interested in upholding the guarantees of civil rights granted to citizens of this state by our Federal and State constitutions."

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The Court of Appeals ruling should serve as a warning to other labor organizations and associations that they may no longer effectively bar Negroes from membership without prosecution and punishment.

Two Justices dissented from the opinion which denounced the presumption of fraud under the law which led to the Negro's conviction. It called the law "peonage" contrary to the guarantees of liberty granted in the 13th Amendment of the Constitution which prohibits involuntary servitude. The majority opinion was written by Justice Robert H. Jackson.

4-10-44

The case reached the court as result of the arrest in January, 1943, of Emanuel Pollock, who was charged with accepting, the previous October, an advance of $5 from J. W. O'Albora, on a promise to do corn work. Pollock pleaded guilty, without advice of counsel, and was sentenced under the Florida law.

District Court Denied Relief

The District Court denied the relief sought and the Circuit Court of Ap-

Full Text of Supreme Court Decision In "White Primary" Case of Texas

Chi. Defender 4-15-44 Mo.

4-14-44

The full text of the decision of the U. S. Supreme court in the Texas "white primary" case in which it was held that Negroes could not legally be barred from voting in primary elections follows:

SUPREME COURT OF THE U. S.
No. 51 October term, 1943

Lonnie E. Smith, Petitioner, vs. S. E. Allwright, Election Judge, et al

On Writ of Certiorari to the United States Circuit Court of Appeals for the 5th Circuit

April 3, 1944

Mr. Justice Reed delivered the opinion of the Court

This writ of certiorari brings here for

...ages in the sum ...rt of petitioner, a ...48th precinct of ..., for the refusal ...tion and associate ...ctively of that pre... ballot in the pri... 27, 1940, for the ...ratic candidates for ...nate and House of ...Governor and other ...fusal is alleged to ...use of the race and ... voter.

...The suit was ...urt of the U. S. ...ict of Texas which ...der Judicial Code ...14.

...review a claim for damages ... of $5,000 on the part of ... Negro citizen of the ... Harris County, Texas, for ... of respondents, election ... election judges respectively ... cinct, to give petitioner a ballo... permit him to cast a ballo... mary election of July 27, ... nomination of Democratic c... the United States Senate a... Representatives, and Governo... state officers. The refusal ... have been solely because of ... color of the proposed voter ...

...The actions of respondents ... to violate Sections 31 and ... of the United States code ... titioner was deprived of ri... by Sections 2 and 4 of Ar... the 14th and 15th amendments ... to the U. S. constitution. ... filed in the Dist. Court of ... for the Southern District of ... had jurisdiction under Ju... Section 24, subsection 14.

peals quite properly affirmed its action on the authority of Grovey V. Townsend, 295 U. S. 45. We granted the petition for certiorari to resolve a claimed inconsistency between the decision in the Grovey case and that of the U. S. v. Classic, 313 U. S. 299 319 U. S. 738.

The State of Texas by its constitution and statutes provides that every person, if certain other requirements are met which are not here in issue, qualified by residence in the district or county "shall be deemed a qualified elector." Constitution of Texas, Article VI, Section 2; Vernon's Civil Statutes (1939 ed.) Article 2955.

Primary elections for U. S. Senators, Congressmen and state officers are provided for by Chapters 12 and 13 of the statutes. Under these chapters, the Democratic party was required to hold the primary which was the occasion of the alleged wrong to petitioner. A summary of the state statutes regulating primaries appears in the footnote. These nominations are to be made by the qualified voters of the party. Art. 3101.

A Voluntary Association

The Democratic Party of Texas is held by the Supreme Court of that state to be a "voluntary association," Bell v. Hill, 123 Tex. 531, 584, protected by Section 27 of the Bill of Rights, Art. I, Constitution of Texas, from interference by the state except that:

"In the interest of fair methods and a fair expression by their members of their preferences in the selection of their nominees, the state may regulate such elections by proper laws." P. 545 That court stated further:

"Since the right to organize and maintain a political party is one guaranteed by the Bill of Rights of this State, it necessarily follows that every privilege essential or reasonable appropriate to the exercise of that right is likewise guaranteed,—including of course, the privilege of determining the policies of the party and its membership.

"Without the privilege of determining the policy of a political association and its membership, the right to organize such an association would be a mere mockery. We think these rights,—that is, the right to determine the membership of a political party and to determine its policies, of necessity are to be exercised by the State Convention of such party, and cannot, under any circumstances be conferred upon a State or Governmental agency." P. 546 Cf. Waples v. Marrast, 108 Texas 5.

The Democratic Party on May 24, 1932, in a State Convention adopted the following resolution, which has not since been "amended, abrogated, annulled or avoided."

"Be it resolved that all white citizens of the State of Texas who are qualified to vote under the Constitution and laws of the state shall be eligible to membership in the Democratic party and, as such, entitled to participate in its deliberations."

It was by virtue of this resolution that the respondents refused to permit the petitioner to vote.

Must Not Violate U. S. Constitution

Texas is free to conduct her elections and limit her electorate as she may deem wise, save only as her action may be affected by the prohibitions of the U. S. constitution or in conflict with powers delegated to and exercised by the national government.

The 14th amendment forbids a state from making or enforcing any law which abridges the privileges or immunities of the citizens of the U. S. and the 15th amendment specifically interdicts any denial or abridgement by a state of the right of citizens to vote on account of color.

Respondents appeared in the District Court and the Circuit Court of Appeals and defended on the ground that the Democratic party of Texas is voluntary organization with members banded together for the purpose of selecting individuals of the group representing the common political beliefs as candidates in the general election.

As such a voluntary organization, it was claimed, the Democratic party is free to select its own membership and limit to whites participation in the party primary. Such action, the asserted, does not violate the 14th, 15th, or 17th amendment as officers of government cannot be chosen at primaries and the amendments are applicable only to general elections where governmental officers are actually elected.

Primaries, it is said, are political party affairs, handled by party not governmental officers. No appearance for respondents is made in this Court.

this court had before it another suit for damages for the refusal in a primary of a county clerk, a Texas officer with only public functions to perform, to furnish petitioner, a Negro, an absentee ballot. The refusal was solely on the ground of race. This case differed from Nixon v. Condon, supra, in that a state convention of the Democratic party had passed the resolution of May 24, 1932, hereinbefore quoted. It was decided that the determination by the state convention of the membership of the Democratic party made a significant change from a determination by the executive committee. The former was party action, voluntary in character.

The latter, as had been held in the Condon case, was action by authority of the state. The managers of the primary election were therefore declared not to be state officials in such a sense that their action was state action. A state convention of a party was said not to be an organ of the state. This court went on to announce that to deny a vote in a primary was a mere refusal of party membership with which "the state need have no concern," loc. cit. at 55, while for a state to deny a vote in a general election on the ground of race or color violated the Constitution.

Consequently, there was found no ground for holding that the county clerk's refusal of a ballot because of racial ineligibility for party membership denied the petitioner any right under the 14th or 15 amendments.

Since Grovey v. Townsend and prior to the present suit, no case from Texas, involving primary elections has been before this court. We did decide, however, U. S. v. Classic, 313 US 299. We there held that Section 4 of Article 1 of the Constitution authorized Congress to regulate primary as well as general eelctions, 313 U. S. at 316, 317 "where the primary is by law made an integral part of the election machinery." 313 U. S. at 318.

Consequently, in the Classic case, we upheld the applicability to frauds in a Louisiana primary of No. 19 and 20 in the Criminal code. Thereby corrupt acts of election officers were subjected to Congressional sanctions because that body had power to protect the rights of federal suffrage secured by the Constitution in primary as in general elections. 313 US at 323.

Primary Part of Election Procedure

This decision depended, too, on the determination that under the Louisiana statutes the primary was a part of the procedure for choice of Federal offices. By this decision the doubt as to whether or not such primaries were a part of "elections" subject to federal control, which had remained un-answered since Newberry v. US, 256 US 232, was erased. The Nixon cases were decided under the equal protection clause of the 14th amendment without a determination of the status of the primary as a part of the electoral process. The exclusion of Negroes from the primaries by action of the state was held invalid under that amendment.

The fusing by the Classic case of the primary and general elections into a single instrumentality for choice of officers has a definite bearing on the permissibility under the Constitution of excluding Negroes from primaries. This in not to say that the Classic case cuts directly into the rationale of Grovey v. Townsend. This latter case was not mentioned in the opinion.

Classic bears upon Grovey v. Townsend not because exclusion of Negroes from primaries is any more or less state action by reason of the unitary character of the electoral process but because the recognition of the place of the primary in the electoral scheme makes clear that state delegation to a party of the power to fix the qualifications of primary elections is delegation of a state function that may make the party's action the action of the state.

Reexamination Called For

When Grovey v. Townsend was written, the Court looked upon the denial of a vote in a primary as a mere refusal by a party of party membership. 295 U. S. at 55. As the Louisiana statutes for holding primaries are similar to those of Texas, our ruling in Classic as to the unitary character of the electoral process calls for a reexamination as to whether or not the exclusion of Negroes from a Texas party primary was state action.

The statutes of Texas relating to primaries and the resolution of the Democratic party of Texas extending the privileges of membership to white citizens only are the same in substance and effect today as they were when Grovey v. Townsend was decided by a unanimous court. The question as to whether the exclusionary action of the party was the action of the state persists as the determinative factor.

In again entering upon consideration of the inference to be drawn as to state action from a substantially similar factual situation, it should be noted that Grovey v. Townsend upheld the exclusion of Negroes from primaries through the denial of party membership by a party convention.

A few years before this court refused approval of exclusion by the state executive committee of the party. A different result was reached on the theory that the committee action was state authorized and the convention was unfettered by statutory control. Such variation in the result from so slight a change in form influences us to consider anew the legal validity of the distinction which has resulted in barring Negroes from participation in the nominations of candidates of the Democratic party in Texas.

Other precedents of this court forbid the abridgement of the right to vote. United States v. Reese, 92 US 214, 217; Neal v. Delaware, 103 U. S. 370, 388; Guinn v. US, 238 US 347, 361; Myers v. Anderson, 238 US 368, 379; Lane v. Wilson 307 US 268.

Right Secured By Constitution

It may now be taken as a postulate that the right to vote in such a primary for the nomination of candidates without discrimination by the state, like the right to vote in a general election, is a right secured by the Constitution. US v. Classic, 313 US at 314; Myers v. Anderson, 238 US 368; Ex parte Yarborough, 110 US 651, 663 et seq. By terms of the 15th amendment that right may not be abridged by any state on account of race. Under our constitution, the great privilege of choosing his rulers may not be denied a man by the state because of his color.

We are thus brought to an examination of the qualifications for Democratic primary electors in Texas, to determine whether state action or private action has excluded Negroes from participation. Despite Texas' decision that the exclusion is produced by private or party action, Bell v. Hill, supra, federal courts must for themselves appraise the facts leading to that conclusion.

It is only by the performance of this obligation that a final and uniform interpretation can be given to the constitution, the "supreme Law of the Land." Nixon v. Condon, 286 US 73, 8; Standard Oil Co. v. Johnson, 316 US 481, 483; Bridges v. Cal., 314 US 252; Lisenba v. Cal., 314 US 219, 238; Union Pacific R. Co. v. US, 313 US 450, 467; Drivers Union v. Meadowmoor, 312 US 287, 294; Chambers v. Florida, 309 US 227, 388. Texas requires electors in a primary to pay a poll tax.

Every person who does so pay and who has the qualifications of age and residence is an acceptable voter for the primary. Art. 29 55. As appears above in the summary of the statutory provisions set out in note 6, Texas requires by the law the election of the county officers of a party. These compose the county executive committee. The county chairmen so selected are members of the district executive committee and choose the chairman for the district.

State Directs Selection of Party Officers

Precinct primary election officers are named by the county executive committee. Statutes provide for the election by the voters of precinct delegates to the county convention of a party and the selection of delegates to the district and state conventions by the county convention. The state convention selects the state executive committee. No convention may place in platform or resolution any demand for specific legislation without endorsement of such legislation by the voters in a primary. Texas thus directs the selection of all party officers.

Primary elections are conducted by the party under state statutory authority. The county executive committee selects precinct election officials and the county district or state executive committees, respectively, canvass the returns. These party committees or state convention certify the party's candidates to the appropriate officers for inclusion on the official ballot for the general election.

The party takes its character as a state agency from the duties imposed upon it by state statutes; the duties do not become matters of private law because they are performed by a political party. The plan of the Texas primary follows substantially that of Louisiana, with the exception that in Louisiana the state pays the cost of the primary while Texas assesses the cost against candidates. In numerous instances, the Texas statutes fix or limit the fees to be charged.

Whether paid directly by the state or through state requirements, it is state action which compels. When primaries become a part of the machinery for choosing officials, state and national, as they have here, the same tests to determine the character of discrimination or abridgement should be applied to the primary as are applied to the general election.

If the state requires a certain electoral procedure, prescribes a general election ballot made up of party nominees so chosen and limits the choice of the electorate in general elections for state offices, practically speaking, to those whose names appear on such a ballot, it endorses, adopts and enforces the discrimination against Negroes, practiced by a party entrusted by Texas law with the determination of the qualifications of participants in the primary. This is state action within the meaning of the 15th amendment. Guinn v. U. S. 238 US 347, 362.

A Constitutional Democracy

The U. S. is a constitutional democracy. Its organic law grants to all citizens a right to participate in the choice of elected officials without restriction by any state because of race. This grant to the people of the opportunity for choice is not to be nullified by a state through casting its electoral process in a form which permits a private organization to practice racial discrimination.

However, when convinced of former error, this court has never felt constrained to follow precedent. In constitutional questions, where correction depends upon amendment and not upon legislative action this court throughout its history has greatly exercised its power to reexamine the basis of its constitutional decisions. This has long been accepted practice, and this practice has continued to this day.

This is particularly true when the decision believed erroneous is the application of a constitutional principle rather than an interpretation of the constitution to extract the principle itself. Here we are applying, contrary to the recent decision in Grovey v. Townsend, the well established principle of the 15th amendment, forbidding the abridgement by a state of a citizen's right to vote. Grovey v. Townsend is overruled."

Judgement reversed.

Mr. Justice Frankfurter concurs in the result.

In Alabama

MONTGOMERY, Ala.—Arthur A. Madison, a New York colored lawyer, was fined $500 and held incompetent to practice in Alabama last week by Judge Eugene Carter of the Fifteenth Judicial Circuit Court.

Judge Carter, hearing the case without a jury, upheld an original verdict handed down by the Montgomery County Common Pleas Court. Madison was charged with attempting to act as counsel for clients who had not engaged him, in efforts to register Negro voters.

FOUGHT IN COURT

Officials brought about Madison's arrest after he had gone to court seeking to compel registration of several Negro poll tax payers. A group of these Negroes were later intimidated in signing a statement declaring they had not engaged Madison to represent them, it is stated.

The case was argued in the United States supreme court by Charles H. Houston, who handled the case as a private attorney and not for any organization. The National Association for the Advancement of Colored People and the American Civil Liberties Union filed briefs amicus curiae in support of the firemen.

"This right to protect Negro workers has not yet been won and will not be won until all labor unions and employers alike agree to the democratic principle that all men are entitled to earn a livelihood without any distinction whatsoever as to race or color."

Rail Decision Is Hailed By NAACP

NEW YORK — (SNS) — The struggle to break down discrimination against Negro Americans. Negro workers in this country have for years been struggling against discriminatory practices by certain employers and by certain labor unions.

This decision will have tremendous bearing not only in the fight of Negro firemen to pursue their occupation on an equal basis with other firemen, but will also be of great value in the other cases against Negro workers.

"This opinion of the United States supreme court and the concurring opinions alike will go down in legal history as one of the landmarks in the campaign for full and complete citizenship for Negro Americans.

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N. Y. Lawyer Fined $500

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Reexamination Called For

When Grovey v. Townsend was written, the Court looked upon the denial of a vote in a primary as a mere refusal by a party of party membership. 295 U. S. at 55. As the Louisiana statutes for holding primaries are similar to those of Texas, our ruling in Classic as to the unitary character of the electoral process calls for a reexamination as to whether or not the exclusion of Negroes from a Texas party primary was state action.

The statutes of Texas relating to primaries and the resolution of the Democratic party of Texas extending the privileges of membership to white citizens only are the same in substance and effect today as they were when Grovey v. Townsend was decided by a unanimous court. The question as to whether the exclusionary action of the party was the action of the state persists as the determinative factor.

In again entering upon consideration of the inference to be drawn as to state action from a substantially similar factual situation, it should be noted that Grovey v. Townsend upheld the exclusion of Negroes from primaries through the denial of party membership by a party convention.

A few years before this court refused approval of exclusion by the state executive committee of the party. A different result was reached on the theory that the committee action was state authorized and the convention was unfettered by statutory control. Such variation in the result from so slight a change in form influences us to consider anew the legal validity of the distinction which has resulted in barring Negroes from participation in the nominations of candidates of the Democratic party in Texas.

Other precedents of this court forbid the abridgement of the right to vote. United States v. Reese, 92 US 214, 217; Neal v. Delaware, 103 U. S. 370, 388; Guinn v. US, 238 US 347, 361; Myers v. Anderson, 238 US 368, 379; Lane v. Wilson 307 US 268.

Right Secured By Constitution

It may now be taken as a postulate that the right to vote in such a primary for the nomination of candidates without discrimination by the state, like the right to vote in a general election, is a right secured by the Constitution. US v. Classic, 313 US at 314; Myers v. Anderson, 238 US 368; Ex parte Yarborough, 110 US 651, 663 et seq. By terms of the 15th amendment that right may not be abridged by any state on account of race. Under our constitution, the great privilege of choosing his rulers may not be denied a man by the state because of his color.

We are thus brought to an examination of the qualifications for Democratic primary electors in Texas, to determine whether state action or private action has excluded Negroes from participation. Despite Texas' decision that the exclusion is produced by private or party action, Bell v. Hill, supra, federal courts must for themselves appraise the facts leading to that conclusion.

It is only by the performance of this obligation that a final and uniform interpretation can be given to the constitution, the "supreme Law of the Land." Nixon v. Condon, 286 US 73, 8; Standard Oil Co. v. Johnson, 316 US 481, 483; Bridges v. Cal., 314 US 252; Lisenba v. Cal., 314 US 219, 238; Union Pacific R. Co. v. US, 313 US 450, 467; Drivers Union v. Meadowmoor, 312 US 287, 294; Chambers v. Florida, 309 US 227, 238. Texas requires electors in a primary to pay a poll tax.

Every person who does so pay and who has the qualifications of age and residence is an acceptable voter for the primary. Art. 29 55. As appears above in the summary of the statutory provisions set out in note 6, Texas requires by the law the election of the county officers of a party. These compose the county executive committee. The county chairmen so selected are members of the district executive committee and choose the chairman for the district.

State Directs Selection of Party Officers

Precinct primary election officers are named by the county executive committee. Statutes provide for the election by the voters of precinct delegates to the county convention of a party and the selection of delegates to the district and state conventions by the county convention. The state convention selects the state executive committee. No convention may place in platform or resolution any demand for specific legislation without endorsement of such legislation by the voters in a primary. Texas thus directs the selection of all party officers.

Primary elections are conducted by the party under state statutory authority. The county executive committee selects precinct election officials and the county district or state executive committees, respectively, canvass the returns. These party committees or state convention certify the party's candidates to the appropriate officers for inclusion on the official ballot for the general election.

The party takes its character as a state agency from the duties imposed upon it by state statutes; the duties do not become matters of private law because they are performed by a political party. The plan of the Texas primary follows substantially that of Louisiana, with the exception that in Louisiana the state pays the cost of the primary while Texas assesses the cost against candidates. In numerous instances, the Texas statutes fix or limit the fees to be charged.

Whether paid directly by the state or through state requirements, it is state action which compels. When primaries become a part of the machinery for choosing officials, state and national, as they have here, the same tests to determine the character of discrimination or abridgement should be applied to the primary as are applied to the general election.

If the state requires a certain electoral procedure, prescribes a general election ballot made up of party nominees so chosen and limits the choice of the electorate in general elections for state offices, practically speaking, to those whose names appear on such a ballot, it endorses, adopts and enforces the discrimination against Negroes, practiced by a party entrusted by Texas law with the determination of the qualifications of participants in the primary. This is state action within the meaning of the 15th amendment. Guinn v. U. S. 238 US 347, 362.

A Constitutional Democracy

The U. S. is a constitutional democracy. Its organic law grants to all citizens a right to participate in the choice of elected officials without restriction by any state because of race. This grant to the people of the opportunity for choice is not to be nullified by a state through casting its electoral process in a form which permits a private organization to practice racial discrimination

However, when convinced of former error, this court has never felt constrained to follow precedent. In constitutional questions, where correction depends upon amendment and not upon legislative action this court throughout its history has greatly exercised its power to reexamine the basis of its constitutional decisions. This has long been accepted practice, and this practice has continued to this day.

This is particularly true when the decision believed erroneous is the application of a constitutional principle rather than an interpretation of the constitution to extract the principle itself. Here we are applying, contrary to the recent decision in Grovey v. Townsend, the well established principle of the 15th amendment, forbidding the abridgement by a state of a citizen's right to vote. Grovey v. Townsend is overruled."

Judgement reversed.

Mr. Justice Frankfurter concurs in the result.

In Alabama

MONTGOMERY, Ala.—Arthur A. Madison, a New York colored lawyer, was fined $500 and held incompetent to practice in Alabama last week by Judge Eugene Carter of the Fifteenth Judicial Circuit Court.

Judge Carter, hearing the case without a jury, upheld an original verdict handed down by the Montgomery County Common Pleas Court. Madison was charged with attempting to act as counsel for clients who had not engaged him, in efforts to register Negro voters.

FOUGHT IN COURT

Officials brought about Madison's arrest after he had gone to court seeking to compel registration of several Negro poll tax payers. A group of these Negroes were later intimidated in signing a statement declaring they had not engaged Madison to represent them, it is stated.

The case was argued in the United States supreme court by Charles H. Houston, who handled the case as a private attorney and not for any organization. The National Association for the Advancement of Colored People and the American Civil Liberties Union filed briefs amicus curiae in support of the firemen.

Rail Decision Is Hailed By NAACP

NEW YORK — (SNS) — Thurgood Marshall, special counsel of the NAACP, hailed the opinion of the United States supreme court in the case of two Negro firemen who won their contention that they had been "frozen out" of employment by an agreement between the railroads for which they work and the Brotherhood of Locomotive Firemen which limited employment of white men. Marshall's statement said:

"The decision of the United States supreme court in two cases against the Brotherhood of Locomotive Firemen and Enginemen is another milestone in the legal struggle to break down discrimination against Negro Americans. Negro workers in this country have for years been struggling against discriminatory employment practices by certain labor unions.

"This decision will have tremendous bearing not only in the fight of Negro firemen to pursue their occupation on an equal basis with other firemen, but will also be of great value in the other cases against Negro workers.

"This right to protect Negro workers has not yet been won and will not be won until all labor unions and employers alike agree to the democratic principle that all men are entitled to earn a livelihood without any distinction whatsoever as to race or color."

N. Y. Lawyer Fined $500

14-1944

Supreme Court Justice Launches Bitter Attack On Discrimination

Tribune — Philadelphia, Pa.

WASHINGTON, D. C.—"The utter disregard for the dignity and well-being of the colored citizens shown by the record of the Fourth Circuit Court is so pronounced as to demand the invocation of Constitutional condemnation," said Associate Justice Frank Murphy in concurring with the Supreme Court decision that the Brotherhood of Locomotive Firemen and Engineers must represent colored firemen.

The decision was handed down Monday by Chief Justice Harlan F. Stone and was based on the fact that even though colored firemen are excluded from the union, the Brotherhood represents an entire "craft," of which Negroes constitute a minority group.

The defendants charged that the Brotherhood bargained with 21 railroads committed to "sweep all colored firemen off all the southern railroads."

The Court remanded the case of a worker who sued the railroad for $25,000 damages and his job to the lower court.

Justice Murphy further said that no statutory interpretation can erase the ugly example of economic cruelty against colored citizens of the USA . . . and that a sound democracy can't allow such discrimination to go unchallenged.

12-23-44

Rail Workers Now In Position To Collect Damages, Win Jobs Back

Louisiana Weekly — New Orleans

By Ernest E. Johnson

12-30-44

(By The Associated Negro Press)

Washington, Dec. 27.—An estimated 4,000 Negro locomotive firemen and brakemen who in one way or another have been "under the hammer" of the Brotherhood of Locomotive Firemen and Enginemen because of an agreement between the union and 21 southern railroad companies, now find themselves in a position for the first time to collect damages and to win reinstatement to their former jobs, all as a result of the unanimous decision of the United States Supreme Court last Monday in the famous Steele and Tunstall cases.

"The court substantiated the fact that we have a cause of action which we will now have to enforce," declared Charles H. Houston, general counsel for the petitioners who presented their cases before the high tribunal five weeks ago.

While the court unanimously held that Bostor William Steele's complaint against the Louisville & Nashville railroad, and the brotherhood, and that of Tom Tunstall against the brotherhood, warranted a remedy which only the courts could provide, Chief Justice Harlan Stone, in reading the opinion, did not go so far as did Associate Justice Frank Murphy in a concurring opinion.

"The economic discrimination against Negroes practiced by the brotherhood and the railroad under color of congressional authority raises a grave constitutional issue that should be squarely faced," wrote Mr. Murphy. "The utter disregard for the dignity and the well-being of colored citizens shown by this record is so pronounced as to demand the invocation of constitutional condemnation.

"To decide the case and to analyze the statute solely upon the basis of legal niceties, while remaining mute and placid as to the obvious and oppressive deprivation of constitutional guarantees, is to make the judicial function something less than it should be."

The question before the court was whether the Railway Labor act imposes on a labor organization, acting by authority of the statute as the exclusive bargaining representative of a craft or class of railway employes, the duty to represent all the employes in the craft without discrimination because of their race, and, if so, whether the courts have jurisdiction to protect the minority of the craft or class from the violation of such obligation.

12-30-44

"While the majority of the craft chooses the bargaining representative when chosen it respresents, as the act by its term makes plain, the craft or class, and not the majority," ruled the court. "The fair interpretation of the statutory language is that the organization chosen to represent a craft is to represent all its members, the majority as well as the minority, and it is to act for and not against those whom it represents."

The court said that this interpretation does not bar a representative for a craft from making contracts which "may have unfavorable effects on some of the members of the craft," but maintained that "discriminations based on race alone are obviously irrelevant and invidious."

The court's ruling held further that the union is not only under obligation to represent non-union or minority members of the craft "without hostile discrimination," but that "wherever necessary to that end, the union is required to consider requests of non-union members of the craft and expressions of their views with respect to collective bargaining with the employer and to give to them notice of an opportunity for hearing upon its proposed action."

Whereas the Railroad Adjustment Board was established for the purpose of settling certain categories of disputes, its very composition, the court held, denies Negro firemen of "administrative means" by which they can secure separate representation for the purposes of collective bargaining.

Explaining the next moves, Mr. Houston said that in the Steele case, the matter goes back to the circuit court of Alabama. Tunstall takes his dispute to the circuit court of appeals for the fourth district, to clear up the issue of papers. From there it goes to the U. S. District Court where the action was begun.

Steele is a member of the International Association of Railway Employes, counsel for which was Joseph Waddy and Arthur Shores, the latter of Birmingham. Tunstall, a member of the Association of Colored Railway Trainmen and Locomotive Firemen, was represented by Waddy and Oliver Hill. Mr. Houston was general counsel for both petitioners.

12-30-44

Negro Firemen Win Historic Decision

Chicago Defender — Ill.

12-23-44

By VENICE T. SPRAGGS
(Defender Washington Bureau)

WASHINGTON — In a historic decision, the United States Supreme Court on Monday unanimously clamped down on the lily-white policy of the railroad union brotherhoods.

The findings by the highest tribunal in the land has the effect of halting the wholesale layoffs

ing all Negro
Justice Frank Murphy in moving
guise of constitutional authority,
language ripped into the brother-
still remains No statutory inter-
hoods for their color bias and de-
pretation can erase this ugly ex-
ample of economic cruelty against
colored citizens of the United
States.

Murphy Opinion

Abuse of Rights

"Nothing can destroy the fact
that the accident of birth has been
used as the basis to abuse indi-
vidual rights by an organization
purporting to act in conformity
with Congressional mandate. Any
attempt to interpret the act (rail-
way labor act) must take into ac-
count and must realize that the
constitutionality of the statue in
this respect depends upon the an-
swer given.

"The constitution voices its dis-
approval whenever economic dis-
crimination is applied under au-
thority of law against any race,
creed or color. A sound democ-
racy cannot allow such discrimina-
tion to go unchallenged.

"Racism is too virulent today to
permit the slightest refusal, in the
light of a constitution that abhors
it, to expose and condemn it wher-

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Justice Harlan F. Stone declared in the ruling: "Unless the labor union representing a craft, at least of Negro firemen in the South privileges equal to those granted through the contract signed while membership.

The case involved the suit of two Negro locomotive firemen, Tom Tunstall, formerly employed by the Norfolk and Southern Railroad, and Buster William Steel, firemen on the Louisville and Nashville Railroad, against the brotherhoods and southern railroads.

Calling the case an "ugly example of economic cruelty against colored citizens," the Supreme court not only ruled that unions must represent the rights of Negroes barred from membership but also blasted Jim Crow locals for not granting rights and

owes some duty to represent them as such in labor union representative, the minority of craft, at least since 1911.

Both complained against the collective bargaining agreement signed their interests, or indeed to earn a livelihood by the Brotherhood of Locomotive Firemen and Engineers and the Southeastern Railroads which had

to those granted
as to make
stitutional guarantees
the judicial something less than it
should be.

ever it appears in the course of a statutory interpretation."

The decision completely vitiates the contention of the railroad last December that the Fair Employment Practices Committee directive to alter or abandon the Southeastern agreement was impossible, impractical and re-affirmed the validity of the FEPC's position that the agreement as existed deprived Negro firemen of their democratic rights as employees of the railroad in a class which was supposedly covered by the brotherhood as bargaining representative.

Overtones of the decision spread to the cases of the Boilermakers union in West Coast shipyards where Negro workers complained of their barring union membership which prevented them from working at their highest skill. The union officials consented to admit Negroes in auxiliary locals in which they had no regular official representation in the international body.

Tunstall had filed suit against the Brotherhood seeking $2500 damages and restoration of his job. His suit was dismissed by the Fourth Circuit Court of Appeals which held that Federal Courts had no jurisdiction. The Supreme Court specifically overruled that decision and remanded the case to the lower court for further proceeding.

High Court Decision Hailed As New Bill Of Rights' For Negro In Labor

Pittsburgh COURIER

Unions Analyze Brotherhood Ruling

Pittsburgh, Pa.

WASHINGTON—Labor circles in the Capital early last week were analyzing the thunderous decision of the Supreme Court outlawing the contract ban on promotion of non-whites between railroad operators and the Brotherhood of Locomotive Firemen and Engineers.

The effect of the decision might easily be that of a new "bill of rights" for the Negro in American Labor. 12-30-44

Indications are that the decision can have deep import on auxiliary locals set up by some AFL unions, especially in some unions wherein Negroes cannot join, but pay for work permits and are denied the rights, privileges and protection accorded white members.

Involved in the Supreme Court decision was the Tunstall and Steele cases against the Louisville and Nashville Railroad, and the Brotherhood of Locomotive Firemen and Enginemen. Atty. Charles Houston successfully argued the cases before the court.

FIRST CASE IN RICHMOND

In Richmond, Va., next month the first case before the National Labor Relations board will be argued. It will affect colored employees of Larus Brothers, a tobacco company, wherein they have been forced into a separate local union by a white AFL local through contract with Larus.

The colored workers allege that the contract agreement discriminates against them by prohibiting their upgrading. The Negro workers are asking the NLRB to rescind certification of the white local as the exclusive bargaining agent for all employees with the company. 12-30-44

NLRB OPPOSES CERTIFICATION

NLRB, in a recent case involving West Coast boilermakers, stated that it would reconsider its certification of a union as exclusive bargaining agent when that union failed to represent all employees in the stated unit.

In the firemen's cases, the Court held that the Brotherhood of Locomotive Firemen must represent all employees in its negotiations with the carriers, under the Railway Labor Act, since it is the exclusive representative of the "craft" of firemen.

NO REFERENCE TO AUXILIARIES

Although the Supreme Court made no reference to auxiliary unions of Negroes formed by some unions, the next step by members seeking full rights in these groups may be to secure those rights or have the auxiliaries abolished. As things stand, under the system of auxiliaries, Negro employees cannot be heard in union councils.

The Supreme Court granted writs of ceritoria, in both the Tunstall and Steele cases. In the opinion handed down in the Steele case, Justice Stone declared: "Congress, in enacting the Railway Labor Act and authorizing a labor union, chosen by a majority of a craft, to represent the craft, did not intend to confer plenary power upon the union to sacrifice, for the benefit of its members, rights of the minority of the craft, without imposing upon it any duty to protect the minority."

Both Steele and Tunstall attacked the legality of the collective bargaining agreements entered into by the Brotherhood that provided "not more than 50 per cent of the firemen in each class of service (freight, passenger, etc.) in each seniority district, should be colored.

"That until such percentage was reached, all new runs and vacancies should be filled by white men, and that colored men should not be employed in any seniority district, in which they were not working." Bester William Steele named as a defendant with the Brotherhood, the Louisville and Nashville system, and Tom Tunstall, the Norfolk and Southern Railroad.

In his concurring opinion in the Steele case, Justice Murphy discarded "legal niceties" and discussed "racism—in the light of a Constitution that abhors it." Said he:

UGLY ASPECTS OF CASE 12-30-44

"The cloak of racism surrounding the actions of the Brotherhood in refusing membership to Negroes and in entering into and enforcing agreements discriminating against them, all under the guise of Congressional authority, still remains.

"No statutory interpretation can erase this ugly example of economic cruelty against colored citizens of the United States.

"A sound democracy cannot allow such discrimination to go unchallenged. Racism is far too virulent today to permit the slightest refusal, in the light of a Constitution that abhors it, to expose and condemn it wherever it appears in the course of a statutory interpretation," concluded Justice Murphy.

Joseph C. Waddy, now in the Army, and Oliver W. Hill of Birmingham, were on the brief with Mr. Houston. The Department of Justice filed a brief as a "friend of the Court."

14-1944

Jackson Journal + Guide

Winning Victories But Standing Still

Norfolk, Va 6-17-44

LAST WEEK my associate columnist, Albert L. Hinton, wrote an article under the title: "The Gaines Decision and the Supreme Court Notwithstanding." In this article Mr. Hinton gave notice to the public that the opinion of the Supreme Court in the Gaines case, given six years ago, is being disregarded today by the Southern states. He showed that the Negroes of the country, who according to the court ruling were to receive equal provisions with the whites in higher education, are not enjoying the benefits which the court established. This week I propose to take up where Mr. Hinton left off. I shall discuss the causes and later suggest the remedies for the apparent failure of this and other court decisions to function in the life of the people.

DR. JACKSON

Injuries are inflicted upon Negroes, then some state or national organization decides to enter suit for redress of grievances. The organization goes into court; but the decision to go there represents not the whole-hearted views of the entire membership of the body. The decision to sue represents only the views of the few brave leaders of the organization. Though having only the half-hearted consent of the entire body, these far-sighted leaders nevertheless retain the services of one or more constitutional lawyers and enter court proceedings.

VERSED IN LAW OF THE LAND

Versed in the law of the land as these jurists are, they frequently convince the learned justices of the higher courts that the failure of certain states to provide equal facilities, equal accommodations, or equal privileges for Negroes in education, in travel, or in voting is a violation of the constitutional provision of "due process of law," or the "equal protection of the laws" as guaranteed by the first section of the 14th amendment.

On a given day the high court "hands down" an opinion favoring the Negro plaintiff involved. This ruling is immediately reported in big head lines in the newspapers of the land, and the faint-hearted members of the suing organization, and the racial group as a whole, then engage in a season of rejoicing over the victory "they" have won. But here, too often, the whole matter stops.

HERE WHOLE MATTER HAS STOPPED

Here the whole matter has stopped in the Gaines case, inasmuch as no Southern white state university has yet admitted a Negro for graduate or professional study, nor has any state established the equivalent of such training otherwise. Here the whole matter has stopped likewise in the Alston case, inasmuch as no city or county of Virginia, except Norfolk, has yet fully equalized the salaries of Negro teachers with white teachers. Here the whole matter may stop in the Texas primary case, inasmuch as the Democratic party of the deep South has solemnly announced to Negroes that they shall not vote in the forthcoming primaries. And so it goes in many other cases.

The Constitution of the United States, the supreme law of the land, fully protects Negroes and the Supreme Court and other courts are not slow to recognize it. In its twenty-two appearances before the Supreme Court, the NAACP has won on twenty occasions. Other organizations and individuals have been likewise successful. If, then, the colored people fail to get justice in this country it is not the fault now of the law of the land or the learned justices who interpret it. In each instance the fault lies with the folks back home.

The fault lies in the wavering of the members of organizations or in the failure of the leaders to press on after the decision is won. High courts make a ruling but lower courts and local administrative bodies may never act unless the case in question is brought before them or unless they are forced to act. An excellent example of this situation is furnished in the present teacher salary fight.

MUST PRESS FOR ACTION

Local school boards may never carry out the mandate of the federal courts respecting equal salaries unless the local teachers and local citizens press them to act—press them by writing to them, by sending delegations to them, or if necessary by having another suit over the salary question already decided by the higher federal court. School boards are well aware of the timidity of the teachers and of local citizens who have already won their case in the high court, so they quite naturally do nothing. Say they to themselves: "Our Negro teachers did not favor equalization from the beginning."

The local teachers do not press on because they are handicapped by a doctrine which the whites have taught and the Negroes have accepted for centuries. This is the doctrine of the superiority and inferiority of races, which differs but little from the spurious racial doctrine proclaimed today by the Nazis of Germany.

Negro teachers belong to a lower race of mankind; therefore they must expect less pay than that given white teachers — less even when the Supreme Court of the United States decrees that they shall have the same pay. Thus the supreme law of the land offers all races and all of its citizens equality, but the members of the Negro race refuse it even though it is generously offered.

LEADERS BLAZE TRAIL

Brave leaders blaze the way for the thousands of wavering members of their organizations and in so doing they make no mistake. Eventually the timid souls who follow will catch up with them in their thinking. So it has happened in the history of all human progress. Negroes and all American citizens must strive hard to rid themselves of the notion of racial superiority and inferiority, because it is only by such a process that we may hasten the coming of democracy and the coming of world peace. In the case of the teachers they must persuade, or they must force, their school boards to have respect for the law of the land—they must do it by constantly writing to them, by constantly sending delegations to them, and then finally if these peaceful methods do not succeed, they must call on the courts again. The courts will not fail them.

—LUTHER P. JACKSON.

Richmond Times-Dispatch
Richmond, Va.

Court Backs Negro's Demand For Impartial Union Action

12-19-44

WASHINGTON, Dec. 18—(AP)—The Supreme Court unanimously upheld today a Negro railroader's contention that a union acting under the Railway Labor Act is duty-bound to represent minority Negro firemen impartially.

The court ruled that the law "imposes on a labor organization acting as the exclusive bargaining representative of a craft or class of railway employees, the duty to represent all the employees in the craft without discrimination because of their race."

The finding was made in two unanimous opinions, both written by Chief Justice Stone.

Justice Murphy in separate concurring opinion in both cases said that, "nothing ca ndestroy the fact that the accident of birth has been used as the basis to abuse individual rights by an organization (Brotherhood of Locomotive Firemen and Enginemen) purporting to act in conformity with its congressional mandate. . . . Racism is far too virulent today to permit the slightest refusal, in the light of a Constitution that abhors it, to expose and condemn it wherever it appears in the course of a statutory interpretation."

Stone's majority opinion said the court's finding does not mean "that the statutory representative of a craft is barred fro mmaking contracts which may have unfavorable effects on some of the members of the craft represented." Stone added:

"Variations in the terms of the contract based on differences relevant to the authorized purposes of the contract in conditions to which they are to be applied, such as differenses in seniority, the type of work performed, the competence and skill with which it is performed, are within the scope of the bargaining representation of a craft, all of whose members are not identical in their interest or merit."

In one opinion the court ruled in favor of Bester William Steele, a fireman on the Louisville and Nashville Railroad since 1910. He protested that he and other Negro firemen were discriminated against by an agreement between the Brotherhood of Locomotive Firemen and Enginemen and 21 Southeastern railroads.

12-18-44

Counsel for the brotherhood told the court the agreement with the railroads was made in the interest of efficient rail operations and to provide competent railroad men.

In the second opinion the court held that a Negro locomotive fireman who complained he was forced from his job and replaced by a white man is entitled to protection under the act. The fireman in this case, Tom Tunstall, protested like Steele against the agreement between southeastern railroads and the brotherhood.

Tunstall's attorney said that under present railroad rules Negro firemen are "nonpromotables"—in that they are never promoted to the rank of engineer. The agreement with the railroads, he said, severely restricted the employment of "nonpromotable" firemen.

Tunstall was employed by the Norfolk Southern Railway. He sued the brotherhood for $25,000 damages and the Norfolk Southern for restoration of his job.

A Far-Reaching Decision

Kansas City Call, Mo.

It was always a monstrous misuse of power granted by the government when labor unions barred Negroes from work because of their race. For that reason the decision of the supreme court in the case of the Negro railroad firemen, declaring that whatever union there is must represent all the workers in that craft, has far-reaching possibilities. Either the union will (1) serve Negro firemen like it does its own white members, or (2) it will evade that duty and be brought to book by another appeal to the courts, or (3) the union will take in all the craftsmen, dropping its color bar.

It is too much to expect a cheerful compliance with the court order. Discrimination is a habit maintained too long for that. But the firemen's brotherhood, faced with the duty of giving service, may decide that it might as well take the Negroes in and have their dues and added membership and goodwill. The other choice, deliberate evasion of the court order, could go on only so long as it took for the evidence against it to accumulate.

12/25/44

All honor to these Negro workers who have fought for an equal chance. They have steadfastly for an equal legalistic legerdemain which stood violence. Even when outweighed equity will prevail when technicality shot down in their cabs, The white union is doomed to become. practice. Also the American stomach. Pion- their will to work has nev- when the spirit of this deci- union labor will step up in- eering in progress champion- to much higher acceptance ing social improvement, all when service to the worker men and no man down, both is known to be both its ob- become labor, and will pro- ligation and its pleasure. A fit it.

12/25/44

At the same time our thanks to the supreme court for its guardianship over human rights rather than the strangle hold on work maintained by excluding competition has never set well on

Victory Of Firemen May Cost Railroads Over Million Dollars

Tunstall And Steele Sued For $75,000

Many Others Had Been Fired By Companies

By HARRY McALPIN

WASHINGTON, D. C.—(NNPA) The possibility that the Supreme Court victory won in the Tunstall -Steele cases against the Louisville and Nashville Railroad and the Brotherhood of Locomotive Firemen and Enginemen may cost railroads operating in the South and Southeast over a million dollars was revealed this week by Attorney Charles H. Houston, who successfully represented the Negro firemen in the 5-year court battle and through the Supreme Court.

Both Tom Tunstall and Bester William Steele sued for damages of $25,000 each for denial of their seniority rights and their loss of remuneration by being shifted to more arduous and less remunerative work under the railroad union agreements.

Hundreds of Negro firemen have had similar experiences. The right to bring their suits in federal courts was established in the decision of the Tunstall case.

Mr. Houston also pointed out that the decision is one of the benefit not only to Negroes, but to all minority groups. tI will be effective in obtaining impartial representation where ever a labor union becomes the bargainng representative of an entire group of craft under color of federal authority. This means, he says, that the CIO of the AFL may use the decision whenever the other wins a bargaining agent election, in order to see that it members are not discriminated against by the majority.

In its decision, the court declared: "Unless the labor union representing a craft owes some duty to represent non - union members of the craft, at least to the extent of not discriminating aaginst them as such in the contracts which it makes as their representative, the minority would be left with no means of protecting their interest or, indeed their right to earn a livlihood by pursuing the occupation in which they are employed."

Dining Car Suit Upheld

The United States Circuit Court of Appeals on Wednesday reversed the decision of the District Court of the Southern District of New York which had dismissed the suit for $5,000 brought by Miss Yolanda Barnett (now Mrs. Doxey A. Wilkerson) against the Texas and Pacific Railroad for assault and violation of the civil rights law to serve her in the dining car.

Mrs. Wilkerson contends that she was forcibly ejected from the dining car by the steward, although there was a table available in the section reserved for Negroes. He had refused to permit her to sit at the table because a white couple was eating at the table opposite.

The District Court had ruled it had no jurisdiction over railroad, since it did not do business in New York. Judge Jerome N. Frank of the appellate court, ruled, however, that the company could be sued here since it was found that it has a place of business here.

A petition is also pending in the case with the Interstate Commerce, contending that the action of the railroad in refusing to serve Mrs. Wilkerson was in violation of the Federal civil rights code.

The incident occurred in February, 1943, when Mrs. Wilkerson was traveling from St. Louis to Dallas, Texas.

The plaintiff is national secretary of the youth division of the YWCA. She lives in Brooklyn with her husband, Dr. Doxey A. Wilkerson, executive editor of the People's voice, to whom she was married on Thanksgiving Day.

Tunstall And Steele Sued For $25,000

Many Others Had Been Fired By Companies

By HARRY McALPIN

WASHINGTON, D. C.—(NNPA) The possibility that the Supreme Court victory won in the Tunstall -Steele cases against the Louisville and Nashville Railroad and the Brotherhood of Locomotive Firemen and Enginemen may cost railroads operating in the South and Southeast over a million dollars was revealed this week by Attorney Charles H. Houston, who successfully represented the Negro firemen in the 5-year court battle and through the Supreme Court.

Both Tom Tunstall and Bester William Steele sued for damages of $25,000 each for denial of their seniority rights and their loss of remuneration by being shifted to more arduous and less remunerative work under the railroad union agreements.

Hundreds of Negro firemen have had similar experiences. The right to bring their suits in federal courts was established in the decision of the Tunstall case.

Mr. Houston also pointed out that the decision is one of the benefit not only to Negroes, but to all minority groups. tI will be effective in obtaining impartial representation where ever a labor union becomes the bargainng representative of an entire group of craft under color of federal authority. This means, he says, that the CIO of the AFL may use the decision whenever the other wins a bargaining agent election, in order to see that it members are not discriminated against by the majority.

In its decision, the court declared: "Unless the labor union representing a craft owes some duty to represent non - union members of the craft, at least to the extent of not discriminating aaginst them as such in the contracts which it makes as their representative, the minority would be left with no means of protecting their interest or, indeed their right to earn a livlihood by pursuing the occupation in which they are employed."

JC Suit Against Boston Club Won

BOSTON—(CNS)—A sealed verdict was awarded Mrs. Novella Taylor, night club singer, in her case against the Tic Toc Club in the downtown district by a jury in Superior Court, with Justice Swift persiding, on November 21.

Mrs. Taylor had filed suit under the statute for discrimination following the refusal of a club hostess to seat her and her escort in the center of the club on April 25, 1943, on the ground that the center tables were reserved "for whites only."

Case Offers Precedent

The hearing of the case marked the first time that a case under the statute had ever been heard by a jury and a verdict assessing damages given the plaintiff. William S. West, attorney, represented Mrs. Taylor.

Earlier, Mr. West brought action against the club before the license board, demanding suspension of its license. The board, however, refused, but reprimanded the officials of the club.

Court Rules In Favor Of 'Negro Soldier'

NEW YORK—According to a ruling by Federal Court Judge Alfred C. Coxe, the temporary injunction restraining the War Activities committee from distributing the War Department film, "The Negro Soldier," was vacated last week, and the court seemed inclined to throw the case out entirely.

Action in the matter was brought by The Negro Marches On company, a privately owned film company, which has a picture, "We've Come a Long, Long Way," which is similar in theme to the War Department film charging unfair competition by the Government with private enterprise.

Affidavits of John F. McCloy, Assistant Secretary of War; Truman K. Gibson, Jr., civilian aide to the Secretary of War; Taylor Mills, associate chief, Bureau of Motion Pictures, Office of War Information, and Francis Harmon, coat, was the first case to be won among the hundred brought by Harlemites for property lost in pawnshops, cleaning shops, etc. during the Harlem riot.

14-1944

Negroes Win First Round Against AFL Jim Crow

PM—New York, N.Y. 1-9-44

Rhode Island Judge Finds Auxiliary Illegal

Special Correspondence

PROVIDENCE, R. I., Jan. 8.—The AFL, which clings stubbornly to its crusted policy of shunting Negroes into "auxiliary" unions in the face of ever-growing liberal protest, today faces the threat of a legal assault on its Jim Crowism.

Superior Court Judge Alexander L. Churchill has held that the herding of Negro employes of the huge Walsh-Kaiser Shipyard here into an auxiliary of the Boilermakers Union, Local 308, AFL, and segregation of their ballots were illegal and discriminatory.

A bill of complaint filed by leaders of the Negroes charged that their votes in an election of union officers last Dec. 12 were sidetracked in envelopes marked "C."

"I rule that these complainants are entitled to all rights and privileges of members of Local 308," said Judge Campbell 1-9-44

He found there was no real auxiliary union in Rhode Island and said he doubted whether an international auxiliary of the union with alleged headquarters in Kansas City had anything but a "paper existence." He said, further, that the practice of sending dues of all Negro members to that city was "illegal, unreasonable and oppressive."

The judge ruled that the Negro employes had thought they were joining the local union proper and not an auxiliary, and were unaware of their voting limitations until the election took place.

Holding that "the purpose of the so-called auxiliary was to segregate Negroes and people of no other color," Judge Campbell declared it "illegal and void."

Counsel for the union contended court action was premature, saying the Negroes had not exhausted remedies within the union, but Judge Campbell replied that he was very doubtful if these complainants had any right of appeal" with in the local.

And when union officials claimed through their attorney, Harold C. Arcaro, that "we haven't discriminated in any way," the judge asked: "What was the object of putting 'C' in the ballot each time a Negro presented himself to vote?"

The specific form of the temporary injunction which Judge Campbell said he would grant will be determined Thursday, when attorneys will appear in court to settle wording of the order. The case will then rest in status quo, with discrimination barred, until the case is heard on its merits in Superior Court here. 1-9-44

Other locals of the Boilermakers Union have also run into trouble on the Jim Crow issue, especially the powerful Mount Hood Lodge in Portland, Ore., which has been under fire from the Fair Employment Practice Gommittee because of alleged discrimination against Negroes.

Auxiliary Unions Said Illegal By Northern Judge

Daily World-Atlanta, Ga.

Rule Says All Entitled To Union Rights

1-12-44

PROVIDENCE, R. I.—(A N P)—"I rule that those complainants are entitled to all rights and privileges of members of Local 30," said Superior Court Judge Alexander L. Churchill who held last week that the herding of Negro employes of the Walso-Kaiser shipyard here into an auxiliary of the Boilermakers union, Local 308, AFL, and segregation of their ballots were illegal and discriminatory.

The AFL, which tenaciously holds on to the policy of casting Negroes into "auxiliary" unions, in spite of the fact that there is ever much protest against the action, is now under a legal assault of jim crowism.

Negro leaders recently filed a complaint charging that their votes in an election of union officers last Dec. 12 were sidetracked in envelopes marked "C."

State Inferior Courts

"I rule that those complainants are entitled to all rights and privileges of members or Local 308," Judge Campbell said. 1-12-44

A probe into union activities showed the judge that there was no real auxiliary of the union and that the alleged headquarters in Kansas City had nothing but a "paper existence." He said that the act of sending dues of all Negro members to that city was "illegal, unreasonable and oppressive." 1-12-44

Judge Campbell further ruled that the Negro employes had thought that they were joining the local union proper and not an auxiliary, and did not know of their voting limitations until the day of the election. Holding that the purpose of the auxiliary was to segregate Negroes and people of no other color, he declared it "illegal and void."

When the union officials, through their attorney, Harold C. Arcaro, declared "we haven't discriminated in any way," the judge asked: "What was the object of putting in the ballot each time a Negro presented himself to vote?"

Judge Campbell advised that the specific form of the temporary injunction that he plans to grant, will be determined Thursday when attorneys will gather in court to settle wording of the order. The case will rest in status quo, with discrimination barred, until it is heard in superior court here. 1-12-44

Aside from Local 308 of the Boilermakers union, outstanding among other locals of the union acused of jim crowism, are the Mt. Hood lodge in Portland, Ore., which has been under heat from the FEPC because of alleged discrimination against Negroes.

Negro Lawyer Found Incompetent In State

News-Birmingham, Ala. 5-24-44

MONTGOMERY, Ala.—(A)—Arthur A. Madison, New York Negro lawyer, was fined $500 and held incompetent to practice in Alabama Wednesday by Judge Eugene Carter, of the 15th (Montgomery County) Judicial Circuit.

Judge Carter, hearing the case without a jury, upheld an original verdict handed down by the County Court of Common Pleas. Madison was charged with attempting to act as counsel for clients who had not engaged him, in efforts to register Negroes as voters.

Trial of four similar cases was postponed until next Wednesday.

Arthur Shores, Birmingham Negro lawyer and defense counsel, did not ask for a jury trial, although Asst. Solicitor Evans Hinson announced that both Negroes and white persons had been called on the week's panel. 5-24-44

Shores argued that the state had not shown "criminal intent," that Madison's purpose was "to help these people, to help the community and to make them better citizens." Special State Counsel R. T. Rives contended the testimony "clearly showed" that Madison had not been retained by Mildred Hardy, Negro school teacher and complainant in the case tried Wednesday.

Ruling Of Ark. Judge Favors Teachers Pay Discrimination

Daily World-Atlanta, Ga.

Says Little Rock School Board Has Right To Pay Lower Scale

1-9-44

LITTLE ROCK — (ANP) — The fight against teachers' salary discrimination in the south received a temporary setback when Federal District Judge T. C. Trimble ruled last week that Miss Susie Morris, local high school teacher, would not be given equal salary to that of white teachers with equal training and experience.

Miss Morirs brought action against the school board in 1942 to prevent salary discrimination against colored teachers, a practice that has resulted in lowering the efficiency and rating of Negro schools in the south.

"The court is of the opinion that the defendants (members of the school board) have a right to fix in the salary of each individual teacher in the system according to their ever ordered in a civil suit in the s teachers, and are not required to set up and adhere to some arbirary standard of college degrees nd years of experience in teachg. some mechanical method of

Appeal To Biddle In Alabama Vote Case

Daily World—Atlanta, Ga. 4-18-44

NEW YORK — (SNS) — Attorney General Francis Biddle has been asked to have the Department of Justice act against tempts on the part of Alabama authorities to nullify the United States in the Texas primary election, thirty-day limit after conclusion of

The eight Alabamians maintained that they had been legally denied registration for the election by Mr. Shores, sent to Montgomery by the NAACP, contended before Circuit Court Judge Walter B. Jones, that the registration board had failed officially to deny registration and asserted that his clients had been told: 'You will be notified.' 4-18-44

The citizens were never notified of the action of the Board of Registrants had not been filed within the statutory

suing the bus company and ABC railway for injuries casting him the limb in a train [illegible] Sixth-st., in Birmingham. av and Sixth-st. Representing Lewis Sept. 8, 1943. Re was Attorney Charles- in the suit was A mond.

Alabama Vote Case

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$62,500 DAMAGES AWARDED TO NEGRO

6-20-44

Damage award of $62,500 for loss of his right leg, given to a Negro soldier, Jessie Lewis, of Dallas, Tex., by a jury in Judge Whit Winham's court returned the verdict Saturday in the suit of Lewis against Dixie Greyhound lines, after the jury had lasted a week. Lewis was

The appeal to Biddle was made by the NAACP after Arthur D. Shores, Birmingham attorney acting for Judge Jones dismissed the appeals from the action of the Board of Registrants had not been filed within the statutory primary election, thirty-day limit after conclusion of

...be last session of the board on October 23, 1943.

Originally the clients were represented by Arthur A. Madison, New York attorney. Madison has been fined $2,500 and barred from the practice of law in Alabama because of his efforts in behalf of his clients. The NAACP national office has also asked the Department of Justice to intervene in his case, and to take steps against the Democratic committee of Mobile County, which, on April 11, passed a white primary resolution barring Negroes from the primary elections May 2.

By Albert Deutsch

Minority Rights Triumph in Sleepy Lagoon Murder Upset

The cause of judicial democracy got a big boost last week when a California Court of Appeals upset the guilty verdict against 17 Mexican-American youths in the famous Sleepy Lagoon murder case. The trial, you recall, occurred about two years ago in the midst of the drummed-up hysteria about "zoot-suit crime waves" especially pointed against Negroes on the East Coast, Mexicans on the West Coast.

The body of a dying youth, Jose Diaz, had been found on a dirt road in the Sleepy Lagoon district outside Los Angeles. Amid an unfounded uproar about "zoot-suit murder gangs," paced by the Hearst press, scores of Mexican-Americans were rounded up and jailed. Twenty-four of these youths were sifted out and charged with "conspiracy to murder."

A fantastic case, based on the flimsiest of circumstantial evidence, was built up against them. After a trial featured by judicial bias and appeals to anti-Mexican prejudice on the part of the prosecution, 17 boys were convicted for terms ranging to life imprisonment. Ten were still in prison at the time the verdict was reversed last week.

The Appellate Court, in its decision, pointed out that:

¶ "The record convinced us that there is a complete lack of material and relevant evidence from which the jury could properly find or infer that appellants formed a conspiracy of the kind and type claimed by the prosecution."

¶ "The reprimand and severe castigation administered by the court (to the defense lawyers) was as undeserved as it was unwarranted." (The appeal brief claimed that the judges's remarks were prejudicial to the boys on trial.)

¶ "We are satisfied that the trial judge injured materially the defense by the character of the reprimand administered in the presence of the jury when, in most instances not even a mild rebuke was deserved."

¶ The defendants weren't given adequate opportunity to confer with their counsel.

¶ The defense attorneys were refused a chance to present evidence tending to show that statements made by their clients had been extracted by third-degree methods.

¶ "The evidence is legally insufficient to connect the defendants with the killing of Jose Diaz. . . . To hold under the circumstances here presented that the defendants were accorded their constitutional right . . . would simply be to ignore actualities."

The Sleepy Lagoon case is a classic example of the all-too-frequent miscarriage of justice when prejudice is allowed to tip the scales in court during a wave of race-hate hysteria. The belated act of rectification by the Appeals Court cannot restore to the victims the anguished months and years spent in unjustified imprisonment. But it may serve as a lesson. It gives heart to those who fight for equal rights for all minority groups.

The Sleepy Lagoon Defense Committee, headed by Carey McWilliams, deserves the thanks of all fair-minded Americans for its unceasing struggle to see justice done in this case.

Alabama Court Fines Atty. Arthur Madison $2,500 In Vote Case

MONTGOMERY, Ala.—Attorney Athur A. Madison, of New York City, was fined $2,500 and barred from practice in Alabama on Friday on charges of violating a state law making it illegal for an attorney to act on behalf of a person not employing him.

Judge Lomax Crum, of Montgomery County Court of Common Pleas, convicted Madison on all five charges brought by Circuit Solicitor Temple Seibels. The cases grew out of appeals from action of the County Board of Registrars in denying the petitions of five Negroes for voting privileges.

Seibels described Madison as "an agitator and disturber of the peace," in his final argument before the court.

Attorney Madison, who conducted his own defense, declared he was employed by sixteen persons to handle their registration, and that the five mentioned in the warrant against him were "members of the group."

Pa. R.R. Ordered to Pay $50,000

PHILADELPHIA

By a verdict of the U.S. District Court on November 16, the Pennsylvania Railroad Company was ordered to pay to the family of the late James J. Wootton $50,000 for damages sustained when he was killed accidentally on February 9, 1942, while in the employ of the company.

The suit was filed by Raymond Pace Alexander, attorney, in January, 1943, and was threatened with dismissal, when the company charged that Wootton failed to observe proper precautions just before meeting his death.

24 Years with Company

Mr. Wootten, 69 years old at the time of his death, was a veteran of twenty-four years with the railroad. Although on the retired list and eligible for a pension, he stayed on the job due to the manpower shortage.

While leaving an oiling pit beneath a locomotive, Mr. Wootton was fatally injured, having his arms and limbs amputated.

Composed of Joseph, former local newspaperman; Mrs. Alice Wootton, the widow, and Ruth, a daughter, the Wootton family is well known in Philadelphia's church, fraternal, social and civic circles.

14-1944

State Supreme Courts

Michigan Supreme Court Denies Roxborough Plea

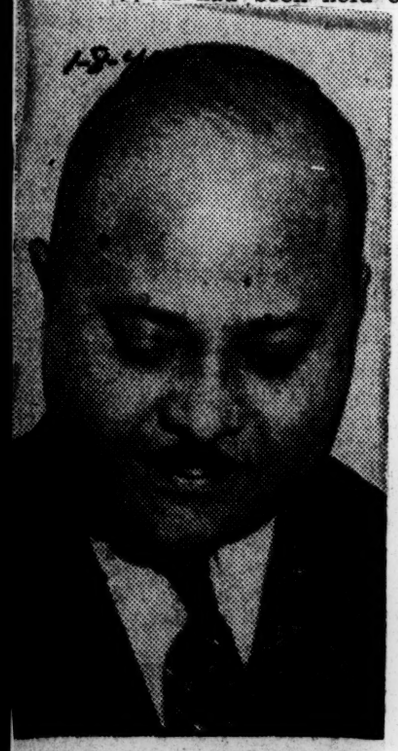
Afro-American - Baltimore, Md.

Joe's Boss May Appeal Numbers Conspiracy Sentence to U.S. Court

1-8-44

DETROIT—Appeals of John W. Roxborough, co-manager of Heavyweight Champion Joe Louis, and Everett I. Watson, from the two-and-one-half-to-five-year sentences meted out to them on a numbers conspiracy charge, were denied by the State Supreme Court at Lansing on Wednesday.

The opinion of the eight-man body was unanimous. Arguments on the appeal had been held on



JOHN W. ROXBOROUGH

October 14.

Lloyd Loomis and Cecil Rowlette, Roxborough's attorneys, have filed application for a stay of sentence, to permit more time for them to determine whether they will seek a rehearing in the State Court or take the case to the U.S. Supreme Court. Decision must be made within the next twenty days. 1-8-44

In this State there is no intermediate court between the State Supreme Court and the U.S. Supreme Court.

Richard Newman and Frederick Walker, attorneys representing Watson, had not decided by Tuesday what action they would take in behalf of their client.

41 Tried

Roxborough and Watson were among forty-one defendants brought to trial in 1941 for conspiracy to protect the numbers and policy rackets in Detroit.

Twenty-two of the defendants were found guilty, among them former Mayor Richard W. Reading and John P. McCarthy, white, suspended police lieutenant.

Roxborough's manager sought to have his case tried separately, but this was not allowed. A jury of eight women and four men deliberated eighteen hours before returning a verdict. 1-8-44

Cops Cleared

Former Mayor Reading was sentenced to 4 to 8 years in prison. Four of the eight colored policemen and detectives who were named in the original indictments were cleared before the conclusion of the two-month trial, and the other four were found guilty by the jury.

William H. Robinson, reputed manager of the Big Four numbers house, which the prosecution said was owned and operated by Roxborough; Claude Roxborough and Clarence Frisby, alleged manager of Watson's Yellow Dog enterprises, were placed on probation for two years, and ordered to pay $2,500 as court costs within sixty days.

While attorneys or Roxborough declined to hazard an opinion as to the outcome of the case, close observers expressed the belief that the unanimity of the Supreme Court decision mitigated against the success of any subsequent appeals.

New Trial Is Assured To Condemned Negro

News - Birmingham, Ala.

6-22-44

MONTGOMERY, Ala. — (AP) — Racine Davis, Bullock County Negro sawmill hand, sentenced to death on a murder charge, won a new trial Thursday under a State Supreme Court decision.

Davis was convicted of the knife slaying of Lee Beverly, a white man on whose farm he lived as a tenant. Testimony in the case, as reviewed by the Supreme Court, was that Beverly was killed when he intervened in a dispute between Davis and another man.

The Supreme Court, in a decision written by Chief Justice Gardner, held that the lower court should have granted a new trial "based upon the ground that the verdict was contrary to the great preponderance of the evidence."

Davis' court-appointed attorney carried the case to the Supreme Court under a new law, sponsored by Gov. Sparks, providing automatic appeals in all death sentences.

Conviction Of Negro In Montgomery Killing Is Sustained By Court

News - Birmingham, Ala.

5-19-44

MONTGOMERY, Ala.—The Alabama Supreme Court Thursday re affirmed the death sentence of Jo Vernon, Birmingham Negro wh has been saved on several occa sions from the electric chair for the 1937 robbery-slaying of Bennie Montgomery, Birmingham filling station attendant, and has set the execution date for July 7.

Decision that the Negro should die in the electric chair at Kilby Prison came following a lengthy court fight by counsel for the Negro who obtained a reversal of the original conviction of death on the contention that Negroes were excluded from the trial jury. The case was taken to the U. S. Supreme Court five times, and he won a new trial. Again he was convicted.

In upholding the verdict of Jefferson County's Circuit Court jury, the Alabama Supreme Court said the appeal was based in part on a contention that Vernon was denied his constitutional rights providing "equal protection of law" in selection of the trial jury.

The court held that no reversible errors were committed by the trial court in denying a petition for a new trial. 5-19-44

Meanwhile, L. C. Bell, convicted jointly with Vernon, has remained in Kilby Prison death cell while Vernon's case was fought through the courts. No record of an appeal was noted in his case, and both former Gov. Frank M. Dixon and present Gov. Chauncey Sparks said his death sentence would not be carried out pending final action by the courts in Vernon's case.

Up to the present, Bell has received about 30 reprieves, the latest until Aug. 18. There was no indication immediately whether Vernon's latest conviction would be appealed to the nation's highest tribunal in Washington.

Also slated for death in the electric chair July 7 is Henry Floyd, convicted in Henry County of murder. Floyd was convicted of the knife slaying of Henry Melton Pybus.

Norfolk Court Is Reversed in 'Jim Crow' Case

Post - Washington, D.C.

6-23-44

Wytheville, Va., June 22 (AP).—The State Supreme Court of Appeals ruled in effect today that a Norfolk Negro teacher, taking a seat by white passengers near the front of a city bus, was innocent of any violation of the "Jim Crow" law because the bus driver sought to enforce the law in a "discriminatory manner."

The opinion, written by Justice John W. Eggleston, dismissed the warrant and reversed the judgment of the Norfolk Corporation Court No. 2 against Sarah P. Davis. Justices Henry W. Holt and Edward W. Hudgins dissented.

The bus driver, the opinion said, "made no request of any white passenger to move forward in the bus and exchange places with the plaintiff in error in order that she might occupy that portion of the vehicle required of her under the law, nor did he suggest such an arrangement to her. 6-23-44

"In effect, he undertook to enforce the statute against the plaintiff in error, a colored person, without enforcing it against a white person and this he had no right to do."

The opinion did not uphold the contention of the teacher that the Virginia segregation law did not apply to city buses.

Ga. High Court Upholds State Ban On Negro Lawyers

Defender - Chicago, Ill.

2-19-44

ATLANTA—(ANP)—George Elmer Ross, of Augusta, Ga., graduate of the University of Chicago law school, failed again Tuesday before the Georgia Supreme court in his effort to force the state board of bar examiners to grant him a license to practice law.

In an unanimous opinion the justices upheld Judge Frank A. Hooper, Jr., of the Fulton Superior court in dismissing mandamus proceedings brought by Ross to compel the board to show cause why he should not be admitted to the bar.

The court said that while the law requires the board to grade the examination papers and to certify applicants who make a grade of 70 per cent or more, the members are the sole judges of grades and there is no appeal from their decision.

"A mandamus writ will not control a (public) officer in the exercise of his discretion," asserted the justices, "but will only require such an officer to act."

Fighting Since 1939

Ross has been trying since 1939 to gain admission to the Georgia Bar. He contended that he had made better than 70 per cent on an examination taken in December, 1942, but that the board had refused to certify him to the Richmond County Superior court as entitled to a law license.

He lost another suit in the Georgia Supreme court last September and then brought the present action in the Fulton Superior court, since the chairman of the board of examiners, John M. Slaton, resides here. 2-19-44

No Negro lawyers, no matter what their training, have been able to pass the Georgia bar, since Benjamin Davis, Jr., now a New York councilman, embarrassed Fulton superior court officials in his defense of the Communist, Angelo Herndon in 1932. Davis, a graduate of the Harvard law school, was admitted to the Georgia bar in 1930.

Sharecropper's Case Appealed to Highest Court

Argus - St. Louis, Mo.

2-18-44

LITTLE ROCK, Ark.—The case of Tee Davis, sharecropper, who was sentenced to 10 years in prison for firing a shotgun in defense of his two-room cabin home at Edmondson, an Arkansas cotton community, will be appealed to the U. S. Supreme Court.

Davis' conviction was upheld by the State Supreme Court last week in spite of a showing that Harold Weaver, town marshal of Edmondson, attempted to break into Davis' home without a warrant while searching for a cattle thief. Davis fired through the door, wounding Weaver in a finger, after which he surrendered to two deputy sheriffs.

Charged with assault with intent to kill, Davis told an all-white jury he knew Weaver only slightly and thought he was a thief attempting to break into the house.

Albany Beating Ruling Appealed

World Telegram - New York, N. Y.

Special to the World-Telegram.

ALBANY, June 21. — Attorney General Nathaniel L. Goldstein was preparing today to appeal a ruling by Supreme Court Justice William H. Murray granting John (Sonny) Jones, Albany Negro, the "unqualified right" to identifications of persons present during Jones' alleged beating in the State Office Building last Feb. 25 in connection with the special grand jury investigation at the instigation of Gov. Dewey of alleged crime in Albany County. 6-21-44

The ruling, handed down yesterday, denied the Attorney General's motion to vacate Police Justice Edward S. Kampf's subpoena of a list of state police and others who were in the building the day of the alleged beating.

Florida High Court Dooms 3, Fight to Save Them Goes On

Daily Worker - New York, N. Y.

9-30-44

sal, which robs the three of all legal rights of the defendants.

The court's decision followed a plea last Monday when, shattering all legal precedents and traditions, a young white girl, Miss Mary Kogge, not a lawyer, appeared before it to plead for the lives of the three boys. No lawyer had been found in the whole state willing to defy the Ku Klux Klan lynch threats by representing the three at the hearing on the Ku Klux Klan and take what further last-minute legal steps are possible to give the three an opportunity for a real day in a real court.

The three victims are Jafes Davis, 16, Freddie Lane, 19, and Jesse C. Williams, 26. They were convicted by on a charge of rape.

The new development was reported in New York by the International Labor Defense, whose attorney, Samuel A. Neuburger, has been in Florida advising the Committee for Preservation of Legal Rights in the case.

Meanwhile, the Florida Committee for Preservation of Legal Rights is seeking counsel willing to defend the three on appeal as "frivolous."

Following the mandate of dismissal, which robs the three of all legal rights of the defendants, is expected to set a new date for the execution of three Negro boys who were convicted and sentenced at Gainesville on August 31, in 80 minutes.

Court rules that human rights are prior to property

Pittsburgh Courier - Calif.

10-28-44

COLUMBUS, O. (WDL)—Chester K. Gillespie, Negro member of the Ohio House of Representatives, has received a settlement in a civil rights suit which he filed over a year ago against the Marzetti restaurant in Columbus.

Gillespie sued when Marzetti's management refused to serve him because of his color. The restaurant challenged Ohio's civil rights law, charging it violated the U.S. Constitution because it invaded the rights of freedom of contract and thus tended to take away the property rights of the company. The court ruled, however, that the Ohio civil rights law was not designed to protect property rights, but to protect personal or human rights, and that human rights take precedence over property rights.

CHARGES BROWNELL RAISED RACE ISSUE

ATLANTA, Oct. 7 (Æ)—John B. Wilson, Secretary of State, in a letter mailed today to Chairman Herbert Mrownell Jr. of the Republican National Committee, accused the latter of "dragging out the red herring by raising the racial issue" in the Georgia intra-party squabble decided yesterday by the State Supreme Court.

The court upheld Mr. Wilson in certifying a so-called "all white" faction, headed by Clint Hager, former State chairman, as the official Republican party in Georgia, althogh the national committee had recognized another faction led by Wilson Williams, National Committeeman, and Ben Davis, an Atlanta Negro.

Mr. Brownell told a press conference in New York on Aug. 16 that the Republican group recognized by Mr. Wilson were "bogus Republicans," and was not recognized at Chicago because "among other reasons, they had denied Negroes the right to vote in their selection of delegates to the convention."

Mr. Wilson, in his letter, wrote: "Your purpose was an attempt to mislead certain voters in some of the so-called 'doubtful' States which have a large Negro vote with the purpose of gaining them for the Republican party. You know that the list of electors you wanted and that I refused to certify for the ballot does not contain any Negroes.

"You know that you did not tell the truth when you stated that the group that I recognized had denied the Negroes in Georgia the privilege of participating in their Republican party affairs in Georgia."

JC Suit Against Boston Club Won

BOSTON—(CNS)—A sealed verdict was awarded Mrs. Novella Taylor, night club singer, in her case against the Tic Toc Club in the downtown district by a jury in Superior Court with Justice Swift persiding on November 21.

Mrs. Taylor had filed suit under the statute for discrimination following the refusal of a club hostess to seat her and her escort in the center of the club on April 25, 1943, on the ground that the center tables were reserved "for whites only."

Case Offers Precedent

The hearing of the case marked the first time that a case under the statute had ever been heard by a jury and a verdict assessing damages given the plaintiff. William S. West, attorney, represented Mrs. Taylor.

Earlier, Mr. West brought action against the club before the license board, demanding suspension of its license. The board, however, refused, but reprimanded the officials of the club.

Novella Taylor Wins Discrimination Case

BOSTON, Mass. (ANP)—Last week an all-white jury returned a verdict to Judge John E. Swift in superior court in favor of Novella Taylor, popular night club entertainer, in her civil suit against the Tic Toc Restaurant, Inc., on the allegation that she had suffered discrimination there. The case started over a year ago when counsel for Miss Taylor, Atty. William S. West, petitioned the licensing board to suspend the Tic Toc's license because Miss Taylor and her escort, a member of the armed forces, were refusec seats near the bandstand. They were informed that the section was reserved for whites only.

Since the licensing board's action was not forthcoming Atty. West brought civil action against the Tic Toc. The defendants refused to make a settlement out of court, as requested by Judge Swift, and the jury trial resulted. Under the Massachusetts Civil Rights act a fine of up to $500 can result plus suspension of license.

14-1944

Writer Contends Court Evaded Issue In Fireman's Case

Daily World- Atlanta, Ga.
1-18-44

By EMORY O. JACKSON

BIRMINGHAM, Ala. — (SNS) — In an 18-page opinion Jan. 13 the Alabama Supreme Court said that the Louisville and Nashville Railroad Company "did nothing illegal" in entering an agreement in 1941 with the Brotherhood of Locomotive Firemen and Enginemen which agreement B. W. Steele alleges "deprived him of his seniority rights and job assignments."

Attorney Arthur D. Shores of Birmingham and Judge William H. Houston of Washington, D. C. in Steele's complaint charged that:

"The Railroad Labor Act so far as it forces the minority workers to accept the collective bargaining representatives as designated by the majority workers as the exclusive collective bargaining agent for the entire craft or class and confers upon such representative so designate unbridled authority to destroy the minority workers' right seniority and job assignment, is unconstitutional, as violating the due process clause of the Fifth Amendment to the United States Constitution.

To that proposition the court opined that "in the last analysis complainants seniority rights must rest upon the contract, and that in so far as the Fifth Amendement is concerned, it relates only to governmental action by private persons." At another point the Court said: "Congress has made no effort to control seniority rights."

It is the theory of the plaintiff that seniority rights are property rights and that to take such rights away from one without "due process of law" is in violation of the Fifth Amendment. 1-18-44

The plaintiff contends that the right to bargain for minority does not carry with it the right to injure that minority. The court observed that "There are numerous instances where individual hardships have to be suffered for the good of the whole." Several cases were cited by the Court to butress its "good-of-the-whole" theory, Tradition and custom, the court held, had to be considered.

The court observed that while Steele "does not seek to be placed in the promotable eligible for engineer) class. ... that a recognition of the principle for which he contends here will ultimately lead to that end." 1-18-44

The court said "The Railroad, in entering into this agreement, did nothing illegal and pursued no illegal means. As a consequence, it was guilty of no actionable wrong. This conclusion makes it clear that the complainant is entitled to no specific performance of the contract of 1929 and any mandatory injunction against the agreement of 1941." 1-18-44

Under an agreement with the Railroad in 1929 Negro railmen had protection of seniority rights. An agreement by the Railroad and Brotherhood in 1941 put Negroes in a "no promotable class" (meaning that they could not become engineers) and reduced the number of firemen so that Negro and white firemen would get a fifty-fifty break as firemen. Negro firemen began to loose their jobs with none being hired.

The court said that "If the Road considers it wiser to continue the policy of hiring only white engineers, there is no more a law standing in the way of the exercise of this choice than there is in the choice of the Brotherhood membership." The court delved into railroad history to cite their 'unbroken custom" of hiring white Engineers.

It seems that the court went out of its way to give its opinion of the "separation of races". It cited the Plessy V. Ferguson case and observed that the race question " is a question of much delicacy, history teaches and all men know." Without a direct statement, and apparently with some irrevelancy to the question at issue, the court seems to have grabbed at a ghost in order to throw its weight on the side of jimcrow trade unions.

The court used the recent adverse decision handed down by the U. S. Supreme Court against the Red Caps to fortify its opinion. Issues in the two cases were fundamentally different. The Red Caps contended that they were a craft in themselves and as such could bargain for themselves, since the recognized bargaining agent refused to admit Negroes. Steele recognized the right of the Brotherhood to bargain for him, sought no membership in the Brotherhood. He claimed that the Brotherhood's agreement with the Road was made to his detriment. 1-18-44

"The court ruled that: "If the Brotherhood is his confidential agent, and must look to his interest, it must look to his promotion in the final analysis. Complainant is not in the majority group of his craft, and if he suffers any hardship, it is due to the act of control of his craft. which can in no event be considered a fraud, either in law or fact."

Steele charged "conspiracy" on the part of the Road and "fraud" on the part of the Brotherhood" in entering the agreement which he alleged injured him.

The court ruled that "charges of conspiracy or fraud in general terms is insufficient'. It said that there was no relief for Steele even though the agreement "modify to detriment."

In April, 1941 the Railway Labor Act went into effect. In Feb. of 1941 the Brotherhood entered an agreement with the Road. In May of the same year the agreement was modified.

Steele was on a preferred run and on April 8, 1941 he was laid off for 16 days, in accordance with the agreement. April 25 he was put back as fireman on a freight. In December he was lowered to fireman on a switch engine. June 3, 1942 he obtained again his old job as fireman on a passenger train with a Diesel engine.

The story is told that the engineer for whom Steele had work with for many years as fireman, died recently of heart attack while "in action", and that Steele took over and engineered the train through safely and on time.

The case is now headed for the Supreme Court. Outcome of the case is of first importance to the Negro all over America. 1-18-44

There are three possible implications in the case.Amendment to the Railway Labor Act, Federal Regulation of Labor Unions or self-regulation of unions.

President Roosevelt in his "second bill of rights" section of his speech in his message to Congress favored the right to work "without regard to station, color or creed."

Alabama Court Upholds Ban on Negro Engineers

Atlanta, Ga. Journal
January 14, 1944

MONTGOMERY, Ala., Jan. 14. (U.P.)—The Alabama Supreme Court has ruled valid a contract between the Louisville & Nashville Railroad and the Brotherhood of Locomotive Eenginemen and Firemen whereby white firemen only are permitted to become engineers.

The unanimous decision affirmed a Jefferson County verdict in action brought by B. W. Steele, of Birmingham, a Negro fireman.

The court held that the contract was not "an actionable wrong," and that under the Railway Labor Act the railroad had a right to enter into such a contract with the brotherhood.

Employment of white firemen only has long been a policy of the railroad. Under "freedom of enterprise" the carrier had a right to employ whom it pleased and Congress has not attempted to tell the railroad how it should conduct itself in this regard, the court said.

Steele had asked $50,000 damages from the brotherhood for failure to properly safeguard the interests of Negro firemen in its bargaining relations with the railroad. The court overruled this claim.

Negro Fireman to Appeal To U. S. Supreme Court

BIRMINGHAM, Ala., Jan. 14.—(U.P.)—Arthur Shores, Birmingham Negro attorney, said the decision of the Alabama Supreme Court in the Negro firemen case would be appealed to the United States Supreme Court.

"We want to test the constitutionality of the Railway Labor Act," said Shores.

"If Congress has given this (railway mediation) board power to permit the taking away of the constitutional property rights of a minority, then we certainly contend the act itself should be struck down," he added.

STUYVESANT TOWN UPHELD BY COURT

Times- Newyork, N.Y.
3-18-44

Plea for Injunction Against Housing Project Turned Down by Shientag

NO ACTION ON BIAS CHARGE

Renting Policy Not Adopted Says Decision on Alleged Ban on Negroes

A decision by Supreme Court Justice Bernard L. Shientag yesterday dismissing the suit brought by Eliot D. Pratt, a sociologist, to restrain the city from proceeding with plans to raze the "Gas House District" to make way for Stuyvesant Town cleared away several legal obstacles to the post-war plans of the Metropolitan Life Insurance Company for carrying out its housing plan. 3-18-44

The project involves some eighteen city blocks on the east side of Manhattan, covers the area from Fourteenth to Twentieth Street, and Avenues A and C, and calls for an outlay of some $50,000,000. It was challenged by Mr. Pratt, who questioned the constitutionality of the contract signed by the city last Aug. 4 giving the life insurance company the right of eminent domain and a 25-year tax exemption.

Mr. Pratt also contended that the contract was unjust and inequitable in that it would deny housing accommodations in the project to Negroes.

Cites High Court Ruling

Referring to another suit instituted by a taxpayer in the area, Justice Shientag pointed out that the Court of Appeals had upheld a Supreme Court ruling that the Redevelopment Companies Law, under which the contract originated, was constitutional and that the United States Supreme Court had refused to review the 4-to-2 decision.

Justice Shientag also analyzed the failure of the Board of Estimate to ratify the contract by a three-fourths vote. The project was approved by eleven votes whereas a three-fourths' vote would require twelve votes.

On this question the court held that "The contention of the plaintiff in this respect cannot be sustained. The contract here involved does not call for the granting of any franchise." 3-18-44

On the question of racial bias Justice Shientag held:

"This question is not properly before the court at the present time. All that the complaint alleges is that it is the intention of the defendants, to the knowledge of the city, to discriminate against Negroes. From the affidavit submitted on the application for a temporary injunction it clearly appears that neither the directors of Stuyvesant nor the directors of Metropolitan have thus far adopted any renting policy, and that they will have no occasion to do so until the project approaches completion, an event that cannot occur for several years to come."

Ecker Statement Recalled

The decision pointed out that Frederick H. Ecker, the president of Stuyvesant and chairman of the Board of the Metropolitan, "and with his approval the Director of Housing Projects of the Metropolitan, did make statements to the effect that it was not the present intention to make provision for Negro families in the new housing project, which was 'planned' to accommodate the type of tenants predominantly resident in the section and the surrounding area. "Mr. Ecker states, however, that ... the present per-sonal opinion and that, ... anythreatened so that irreparable in-jury will result unless prompt, im-mediate relief is granted. Clearly ... there is no basis for a temporary injunction in this case a... anticipation of possible future controversies which may never take place. A temporary injunction is denied."

Taking Case Up

Advertiser- Montgomery, Ala.

Notice of appeal to the U. S. Supreme Court was filed yesterday in the Alabama Supreme Court by Bester William Steele in a case attacking the Railway Labor Act as discriminatory.

Steele, veteran negro fireman

Negro Firem

of the Louisville and Nashville Railroad, claims he and other negroes have been victims of discrimination by the railroad and the Brotherhood of Locomotive Enginemen and Firemen.

The Alabama Supreme Court affirmed Jefferson Circuit Court (Birmingham) in ruling that the railroad had a right to enter into a contract with a majority of employes in a specified classification, even though the contract might affect "detrimentally" a negro minority. 1-30-44

The Alabama tribunal upheld the circuit court in dismissing Steele's suit, in which the fireman also sought $50,000 damages. The lower court had held the bill was "without equity," or that no actionable wrong was shown.

"Congress has made no effort to control the matter of seniority rights. It has left that to contract between the parties. That contract has been entered into which detrimentally affects complainant's seniority rights, but it was made by his representative, and is in conformity with the uniform and traditional practice of the Road," the Alabama Supreme Court ruled in a unanimous decision.

Negro Fireman Loses Appeal In Promotion Suit

Advertiser-Montgomery, Ala.

Court Upholds Right Of Railroads To Hire White Engineers

1-14-44

The Alabama Supreme Court yesterday affirmed the right of a railroad to enter into a contract with a majority of employes in a specified classification, although the contract may affect "detrimentally" a negro minority.

The unanimous decision came in the case of Bester William Steele, veteran negro fireman on the Louisville & Nashville, who claimed he and other negroes had been discriminated against by the railroad and the Brotherhood of Locomotive Firemen and Enginemen in seniority procedure.

Specifically, the court upheld action of Jefferson Circuit Court in dismissing Steele's suit, in which the fireman also sought $50,000 damages. The lower court held that no actionable wrong was shown.

Steele had attacked the railway labor act as discriminatory. In this connection the Supreme Court's decision, written by Chief Justice L. D. Gardner, said:

"Congress has made no effort to control the matter of seniority rights. It has left that to contract between the parties. That contract has been entered into which detrimentally affects complainant's seniority rights, but it was made by his representative, and is in conformity with the uniform and traditional practice of the Road. 1-14-44

"It is a lawful contract entered into in a lawful manner, and the facts alleged fail to show any conduct on the part of the brotherhood that creates in complainant an actionable wrong."

Steele set out in his complaint that he had been an employe of the L. & N. since 1910, but that he and other negroes were not permitted to join the union and were classified as "non-promotable." The court observed that negro firemen constituted a majority on four Southern seniority divisions, but a minority of the total number of firemen employed by the company.

"The negro firemen and the brotherhood firemen together comprise the entire craft or class of firemen employed by the railroad," the chief justice wrote. "The defendant brotherhood is the representative of the entire craft or class. . . . and is so accepted by complainant and other negro firemen."

As to the brotherhood-company contract, the decision said, in part:

"Freedom of individual enterprise is regarded as one of the cornerstones of our form of government. This freedom, under the police power, is subject to many restrictions for the public good. . . . Such freedom of enterprise is restricted as to the railroads in instances too numerous to mention, among them the railroad labor act.

"But no act of Congress has yet been enacted which interferes with the management of the road insofar as the question of selection of its individual employes is concerned. 1-14-44

"If the road considers it wiser to continue the policy of having white engineers, there is no more law standing in the way of the exercise of this freedom of choice than there is in the choice of the brotherhood of its membership. And it is clear enough that the courts have no power to declare otherwise or to dictate a different policy. . . ."

Court Opens Doors To Negroes As Members

ALBANY, N. Y.—(ANP) —The Railway Mail association lost an appeal last week in the appelate court when it sought legal support of its jim crow constiution which limits membership to native American Indians and members of the Caucasian race.

The decision, which prohibits the Railway Mail association from restricting its membership for reason of race, color creed, upholds former Industrial Commissioner Frieda Miller, who first informed the association that its constutution violated the civil rights law. 3-17-44

When membership certificates for Negroes were requested by the New York branch, the restrictive race clause of the association was stresed. The industrial commissioner's opinion was asked. She pointed out that racial restriction was a violation of the civil rights law and the association went to court to restrain her and the attorney general from applying the law to them. 3-17-44

The association contended that it was not a labor union, but a membership insurance coporation and that the state law could not be applied to a group of federal employes. They painted a picture of how application of the law to their organization would impede railway mail service.

Sweeping away all thes contentions, and setting aside a previous ruling by Supreme Court Justice William H. Murray, the appelate division ruled that the association was a labor union and subject to the civil right law which prohibits a union from restricting its membership for reason of race, color or creed.

State Law Against Negro Bias Upheld

Daily Worker New York, N.Y.

(Special to the Daily Worker)

ALBANY, N. Y., March 8.—The Appellate Division today upheld the State Civil rights law prohibiting discrimination by labor organizations because of race, creed or color.

The court reversed a decision of Supreme Court Justice William H. Murray, who had ruled that the Railway Mail Association could compel its New York affiliate to live up to its national constitution barring Negroes. The state body, acting on the basis of the civil rights law, had admitted Negro members. 3-9-44

In reversing Judge Murray, the court upheld the constitutionality of the civil rights law, as well as the contention that the Railway Mail Association is a trade union.

Jim Crow Props Knocked From Rail Mail Ass'n

Daily World-Atlanta, Ga. 3-17-44

NEGRO RAILROAD FIREMEN LOSE CASE

Post-Birmingham, Ala. 1-14-44

By United Press.

MONTGOMERY, Jan. 14.—The Alabama Supreme Court today ruled valid a contract between the Louisville & Nashville Railroad and the Brotherhood of Locomotive Firemen and Engineers whereby white firemen only are permitted to become engineers.

The decision, written by Chief Justice Lucien D. Gardner and concurred in by all associate justices, affirmed a Jefferson County Circuit Court cerdict in action brought by B. W. Steele, of Birmingham, a Negro fireman.

The court held the contract was not "an actionable wrong," and that under the Railway Labor Act the railroad had a right to enter into such a contract with the brotherhood. Employment of white firemen only has long been a policy of the railroad.

Arthur Shores, Birmingham Negro attorney, said today that the decision would be appealed to the United States Supreme Court to "test the constitutionality of the railway labor act." 1-15-44

Negro Appeals Disbarment To Circuit Court

Advertiser Montgomery, Ala 4-20-44

Madison Gives Notice After Vote Cases Are Dismissed

Eight appeals taken to the circuit court of Montgomery County by eight negro residents of Madison Park from the alleged action of the board of registrars in refusing to register them as voters were dismissed in court yesterday by Judge Walter B. Jones on motion of Col. Richard T. Rives appearing as amicus curiae.

Immediately afterward, Arthur A. Madison, New York negro lawyer, who was convicted and fined last week in the court of common pleas for representing five of his race without being employed, and disbarred from practice of law in Alabama, posted bond of $5,000 with Clerk O. C. Maner and gave notice of appeal to the circuit court.

When court convened yesterday morning, several hundred negro spectators had already gathered in the courtroom. A woman photographer representing northern publications, made a number of pictures during the proceedings.

When the cases were called, Madison explained to Judge Jones that, "in view of recent happenings," another attorney had been secured in the case and presented to the court Arthur D. Shores, Birmingham negro attorney, who represented the appellants.

Dismissal Moved

Thereupon Col. Rives presented to the court the motion of the State to dismiss the petitions to require the registrars to register the complainants. The motions to dismiss contained seven grounds, among them: The claimed appeal was not taken within the time allowed by law; the petition failed to aver, by evidence established to the reasonable satisfaction of the board of registrars, that the person was qualified to become a voter; and that it affirmatively appeared on the face of the petitions that the appeal was not taken within the time required by law.

Col. Rives argued to the court that aside from the petition for the appeal being defective in itself, it was not filed within the 30-day period for such an appeal fixed by law. He contended, therefore, that inasmuch as the jurisdiction of the circuit court in the matter was appellate only, and that the cases could come before the court only in the manner prescribed by law, that the circuit court was without jurisdiction.

Shores, speaking for the negro petitioners, contended that under the ruling of the Supreme Court in a recent case against the Board of Registrars of Jefferson County, the Alabama Constitution and statutes did not require any formality in the pleading in the petition for an appeal to the Circuit Court. He further contended that the petition was filed within 30 days after the action of the Board of Registrars. 4-20-44

Finds For State

Judge Jones, after hearing the arguments which lasted about 30 minutes, said he did not find it necessary to pass on the sufficiency of the pleadings, but that he was clear the petitions had not been filed in the time fixed by law. He held that under the act of the Legislature sponsored by Senator Silas D. Cater in 1943, relating to the sessions of the Board of Registrars in Montgomery County, the authority of the board for the session at which the petitions to register were filed expired on Oct. 16, 1943. The petitions before the court were not filed until Dec. 31, 1943, and Judge Jones held this was more than 30 days after the time in which the petitions should have been filed. He dismissed each of the petitions.

Those whose petitions were dismissed were: Willie L. Madison, Annie S. Banks, Mildred Hardy, John H. Winston, Ella Mae Madison, General P. Madison, William F. Emery, Sallieson and Nicholas T. Madison, Frankie Lee Winston, Emma Madison, James T. Madison, Henry G. Payne, Al-B. Madison, and Edgar D. Nixon. Each of the above named negroes stated then in open court that Yesterday's action of the court they did not take the appeals and leaves no petitions of appeal pending in the court, for on Feb. 8, Attorney from New York, Arthur A. Madison, to represent them in the appeals of Ola M. Galloway, Sarah

It is understood that an appeal from Judge Jones' decision to the Supreme Court of Alabama, and if the case is lost there then to the United States Supreme Court.

4-20-44

Railway Labor Act Declared To Be Illegal

Daily World - Atlanta Ga. 11-25-44 12-9-44

Porter-Braemen Case Argued In Federal Court

CHICAGO, — (A N P) — Before Judge Walter J. La Buy of the United States District court continued the porter-brakeman case against the Santa Fe Railroad last week, until January 15. 1945, Atty. Richard E. Westbrooks branded the Railway Labor act as un-constitutional.

The case, involving the jobs of 300 Santa Fe porter-brakemen, will greatly be influenced by the decision on two cases now pending before the United States Supreme court. The cases involve construction of the Railway Labor Act.

Charging that white anti-Negro unions pay the salaries of five members of the Railroad Adjustment board, Attorney Westbrooks pointed out that the Negro trainmen were not permitted to vote or to be represented in the selection of a representative on the adjustment board. Such disfranchisement is in violation of the constitution of the United States, he said.

He predicted that the case is scheduled to find its way to the United States Supreme Court for final decision.

Pa. R.R. Ordered To Pay $50,000

Afro American Baltimore, Md.

PHILADELPHIA

By a verdict of the U.S. District Court on November 16, the Pennsylvania Railroad Company was ordered to pay to the family of the late James J. Wootton $50,000 for damages sustained when he was killed accidentally on February 9, 1942, while in the employ of the company.

The suit was filed by Raymond Pace Alexander, attorney, in January, 1943, and was threatened with dismissal, when the company charged that Wootton failed to observe proper precautions just before meeting his death.

24 Years with Company

Mr. Wootten, 69 years old at the time of his death, was a veteran of twenty-four years with the railroad. Although on the retired list and eligible for a pension, he stayed on the job due to the manpower shortage. 11-25-44

While leaving an oiling pit beneath a locomotive, Mr. Wootton was fatally injured, having his arms and limbs amputated.

Composed of Joseph, former local newspaperman; Mrs. Alice Wootton, the widow, and Ruth, a daughter, the Wootton family is well known in Philadelphia's church, fraternal, social and civic circles.

14-1944

U. S. Inferior Courts

COURT BACKS SPLIT IN DRAFT OF RACES

Times-New York, N.Y.
2-4-44

2-to-1 Decision of U. S. Appeals Tribunal Upholds Separate Quotas for Induction

ARMY TRADITION IS CITED

Doubt That Negroes' Privileges Are Affected by Practice Expressed by Majority

The United States Circuit Court of Appeals ruled in a two-to-one decision yesterday that the Selective Service Administration practice of setting separate quotas for the calling of Negro and white men did not constitute illegal discrimination. The court, therefore, upheld the action of a Federal District judge in dismissing the habeas corpus proceeding through which Winfred William Lynn, a Negro soldier, had sought release from service with the Army, which he had said did "not have democracy in it."

The prevailing opinion of Judges Thomas W. Swan and A. N. Hand did not, however, support the technical ground on which the lower court had made its ruling.

Lynn was ordered by Local Board 261, Jamaica, Queens, to report for induction on Sept. 18, 1942. In order to test the validity of the Negro-white quota system, however, and because, as he said, he preferred jail to service in an army which segregated white from Negro troops, he did not report. Later, on advice of counsel, he submitted to induction so as to be able to give the system a legal test, which the Supreme Court had ruled can be done only through habeas corpus proceedings after induction. 2-4-44

Judge Byers decided, however, that since he had become delinquent through his original failure to report, and had then been inducted as a delinquent, without regard either to order number or Negro-white quota, all questions of discrimination had been cleared away. Judge Swan, in the prevailing opinion, held this incorrect, since the delinquency was caused directly by the Negro-white quota call, in which the Jamaica board had been directed to send up the first ninety white and the first fifty Negro men on its 1A lists.

Judge Swan remarked that the Army had a tradition of racial segregation dating back at least to 1866 and held that the limitation of the number of Negroes called up according to the places available to them in the Army was a practical custom.

"In our opinion," he wrote, "the statutory provisions [against racial discrimination] which the appellant invokes mean no more than that Negroes must be accorded privileges substantially equal to those afforded whites in the matter of volunteering, induction, training and service under the [Selective Training and Service] act."

Dissenting, Judge Charles E. Clark declared that his colleagues' view implied a "supposition that delay must of necessity be an advantage," since the quota system appeared to retard the induction of Negroes as compared with whites. Judge Clark went on: 2-4-44

"But I do not think the supposition can be accepted as being in accord with the habits and thoughts of patriotic citizens during the present crisis or permitted by the statute, which requires that there be no discrimination for color, not that there be no legally disadvantageous discrimination."

Court Upholds Jim Crow in Coast Union

Daily Worker, New York, N.Y.
1-17-44

(Special to the Daily Worker)

SAN FRANCISCO, Jan. 16.—The federal court here has ruled that it has no jurisdiction in the question of union auxiliary locals for Negro members.

By this ruling several injunction suits brought by Marinship Corp. employes to restrain the company from firing them were thrown out. The men had refused to join the Negro auxiliary of the International Brothrhoods of Boilermakers & Shipbuilders, AFL, which has a closed shop at the yard.

The court held that the 15th amendment to the constitution, invoked by the petitioners, "relates only to government action, federal in character, and not to action by private persons." This amendment guarantees equal voting rights for Negroes and whites. 1-17-44

By a previous agreement the decision covers Bethlehem and Moore shipyards as well as Marinship, first involved in the controversy.

WILL APPEAL TO FEPC

Herbert Resner, the Negroes' attorney, said he will not appeal the ruling, but will bring suit in Superior Court under state laws which prohibit racial discrimination.

He said he will also appeal to the Fair Employment Practices Committee to order the shipyards to stop discrimination. FEPC Regional Director Harry L. Kingman says the directives based on hearings in Portland and Los Angeles will apply in the Bay area as well.

Spokesmen for the union say that the question of admitting Negroes to regular locals will be taken up at the union's forthcoming convention in Kansas City. Meanwhile it says it will continue to require Negroes to join the auxiliary and will ask for their dismissal under their closed shop contracts with the shipyards if they refuse to do so.

Negro Draft Quota Upheld

PM-New York, N.Y.
2-4-44

The U. S. Circuit Court, in a 2-1 decision, yesterday upheld the practice of New York local boards in setting up separate quotas for Negro and white inductees.

The test case was provided by Winfred William Lynn, a Negro gardener of Jamaica, L. I., who sought release from the Army on the grounds that he was inducted on a requisition order directing his local board to base its quota on the first 90 white men and the first 50 Negroes in 1A. He was defended by Arthur Garfield Hays of the Civil Liberties Union, and by his brother, Conrad Lynn.

In the dissenting opinion, Judge Charles E. Clark said that the quota practice was clearly a violation of prohibitions in the Selective Service Act against discrimination, and was "not in accord with the habits and thoughts of patriotic citizens during the present crisis or permitted by the statute." 2-4-44

The majority opinion, handed down by Judge Thomas W. Swan and A. N. Hand, affirmed the dismissal of the action on the grounds that Lynn was inducted on a requisition order directing his local board to set up the quota. The majority opinion also held that the Army's custom of segregating white and Negro troops has been lawful since 1866.

Birmingham, Ala., Age-Herald
January 7, 1944

AUTHORITY DENIED IN 'JIM CROW' CASE

SAN FRANCISCO, Jan. 6—(AP)—Three federal judges ruled Thursday that the so-called "Jim Crow Union" controversy between Negro shipyard workers and the International Boilermakers' Union could not be settled in Federal Court because it lacked jurisdiction.

The judges, M. J. Roche, Louis Goodman and A. F. St. Sure, who consolidated three cases into one, concurred in the decision that the Boilermakers' Union was an unincorporated association and therefore had no standing in Federal Courts.

Attorneys for the Negroes, Herbert Resner and George Anderson, announced in court they would seek further action in state courts.

The controversy grew out of the union's closed shop agreement with the shipbuilding concerns. When a Washington executive order demanded no discrimination in employment of workers in the shipyards, the union assertedly gave Negroes clearance but Negro workers failed to join and national officers of the organization formed an auxiliary which the Negroes contended was without benefit to them.

After the Negroes refused to participate in the auxiliary, the shipbuilding concerns discharged them because of the closed shop agreement. The Negroes obtained an injunction forbidding the union to compel the Negroes to join the auxiliary.

TO APPEAL CASE OF NEGRO

Times-New York, N.Y.

Civil Liberties Union to Fight Separate Draft Quotas

2-6-44

A Circuit Court of Appeals decision that there is no discrimination in the practice of New York City draft boards in fixing separate quotas for whites and Negroes for induction into the armed services will be appealed to the Supreme Court of the United States, Arthur Garfield Hays, general counsel for the American Civil Liberties Union, announced yesterday.

The Union's appeal involved Winfred William Lynn, a Negro soldier who was inducted in December, 1942, by Local Board 261 in Jamaica, Queens. Lynn sought release from the Army in habeas corpus proceedings that assailed the practice of fixing quotas for whites and Negroes. The Civil Liberties Union expressed "gratification that the issues have been squarely met by the court, thus affording an opportunity for an appeal on the merits of the case, not upon technicalities." 2-6-44

Two judges of the Circuit Court held that the Army had practiced such segregation of white and Negro units since 1886. The Union commended the dissenting opinion of Judge Charles E. Clark.

The Real Significance Of The Lynn Case

IN A TWO-TO-ONE decision in the case of Winfred William Lynn, the United States Circuit Court of Appeals ruled last week that the Army's practice of setting separate quotas for the induction of Negro and white men into the Nation's Armed Services did not constitute "illegal discrimination" within the real meaning of the law.

But the dissenting opinion of Judge Charles E. Clark, in which he held that the practice of the Selective Service Administration **did** violate the provision in the National Selective Service Act prohibiting discrimination because of race or color, sets a high mark in the noble history of judicial dissents.

The Circuit Court ruling which, it is announced will be appealed to the United States Supreme Court, affirms the dismissal of the habeas corpus proceedings instituted by Lynn, an inducted Negro soldier, in protest against what he termed the "undemocratic" nature of the induction methods and subsequent service in the Army.

The majority opinion upheld the lower court's previous refusal to issue a writ of habeas corpus, pointing out that the U. S. Army's practice of segregating Negro and white units has had "statutory sanction" for many years, and that therefore quota induction on racial proportions is permissible. In other words the Court ruled, in effect, that this obvious injustice has been in effect so long that it's all right to continue it!

The statutory provisions against racial discrimination cited by the defendant in his plea for release by means of habeas corpus only mean, Judge Thomas W. Swann ruled, "that Negroes must be accorded privileges substantially equal to those afforded whites. . . ." But Judge Clark answered that the supposition upon which Judge Swann based his opinion cannot be accepted as being "permitted by statute, which requires that there be no discrimination for color, nor that there be no legally disadvantageous discrimination.".

That the case was a ticklish one for the court since to decide in favor of the defendant would have place some very peculiar interpretations upon plain facts, plain law, branded the whole discriminatory structure of draft induction as illegal, the Journal and Guide is willing to admit. But in deciding against Lynn, the court had to

Army Jim Crow Test Up To Supreme Court

Defender, Chicago, Illinois; 2-12-'44

NEW YORK.—A test of the army's Jim Crow quota system of draft inductions was headed for the U. S. Supreme Court this week after U. S. Circuit Court of Appeals sustained the discriminatory policy by a vote of two to one.

Although the Federal court ruled against Winfred Lynn on February 3 in the case testing the legality of the government's discrimination in the armed forces, the fact that one of the three judges sustained Lynn considerably bolsters the soldier's case, according to defense lawyers.

The dissenting vote of Justice Charles E. Clark upholds Lynn's contention that because he was drafted in a segregated jim crow quota, his induction was in violation of Section 4(a) of the 1940 Draft Act, which states that "in the selection and training of men under this act . . . there shall be no discrimination against any person on account of race or color."

On the basis of this contention Atty. Arthur Garfield Hayes, counsel for the American Civil Liberties Union, which is defending Lynn, will carry its appeal to the United States Supreme Court.

Lynn, a gardener of Jamaica (N. Y.) submitted to induction under protest, and is now a corporal in a West Coast training camp.

Judge Clark, in his dissenting opinion held that the quota practice was clearly a violation of prohibitions in the Selective Service Act against discrimination, and was "not in accord with the habits and thoughts of patriotic citizens during the present crisis or permitted by the statute." Defender.

The circuit court's majority opinion, handed down by Judges Thomas W. Swan and A. N. Hand, affirmed the dismissal of Lynn's appeal on the grounds that Lynn was inducted on a requisition order directing his local board to set up the quota. The majority opinion further held that the army's custom of segregating colored and white troops has been lawful since 1866. Chicago, Ill.

Justices Thomas W. Swan and A. N. Hand made up the majority of the court. Their decision holds that congress did not intend, in passing Section 4(a) of the Draft Act, to interfere with racial segregation either in selection or in training of men for the army. They cite "the army's long established practice of segregating enlisted men into separate white and colored units" as justification for jim crow draft quotas. 2-12-44

"If the congress had intended to prohibit separate white and Negro quotas and calls," they write, "we believe it would have expressed such intention more definitely than by the general prohibition against discrimination appearing in Section 4."

In his dissent, Justice Charles E. Clark, former dean of the Yale Law school, declared that "the legislative intent does not seem to me disputable on the words of the statute itself, but if any doubt exists, I think it must be dispelled by a consideration of the legislative history."

He points out that the anti-discrimination clause was put into the act "to quiet the doubts of representatives of the colored peoples," and adds that Representative Hamilton Fish, who introduced the clause into the act, stated in congress that he was doing so "by request of a group of prominent colored leaders 'who represent the interests of 11,000,000 Negroes in America.'" Justice Clark insists that "the provision against discrimination in selection for color must be given meaning." He concludes: "I find it difficult to think of more apt language to express the congressional intent."

Liberties Case Nolle Prossed

Constitution
Atlanta, Ga.

Federal charges of violating civil liberties filed against W. F. Sutherland, Atlanta police officer, have been nolle prossed by M. Neil Andrews, district attorney.

Sutherland was brought to trial twice in the federal court on the charges of beating, bruising, burning and torturing Quinter Souther, Negro, in order to obtain his confession to a burglary. A mistrial was declared both times.

Andrews said, in view of the fact that two previous trials had ended in that manner, he deemed it inadvisable to incur the expense to the government and take the time necessary to bring the charges into court a third time. 7-18-44

Sutherland was indicted by a federal grand jury in March, 1940, after he was acquitted in a state court case growing out of the same alleged offense.

ATTACKED FOR FAILURE TO GIVE UP HER SEAT

Argus - St. Louis, Mo.
2-18-44

Haiti, Mo. Pastor's Daughter Wins Case

A brave, young woman, who fought back because she felt that she had been mistreated because she was a Negro woman, won justice. She was awarded $1500 damages against the Dixie Greyhound Bus Lines, Inc. by a jury in District U. S. Judge Richard B. Duncan's Court Wednesday. The charge was assault and battery growing out of an incident which happened in Steele, Mo. near the southeast line of the state in April, 1942.

The plaintiff in the suit was Miss Maggie Mack, former school teacher at the Consolidated school in Hieves, Mo., and daughter of the Rev. John Wesley Mack, pastor of First Baptist Church at Haiti, Mo. She is now employed as an inspector in a Northern War plant.

Miss Mack, a graduate of Kentucky State College brought suit on the complaint that she was assaulted on a Dixie Greyhound bus when she and a sick sister, Lucy Mack failed to move out of a seat in the back of the bus to let a white woman who got on sit down.

Struck In Eye

She contended that when she tried to explain to the bus driver that her sister was ill and that she felt she had a right to the seat, he told her he would have her arrested and went across the streeet to the Steele, Mo. courthouse and came back with two men. When she endeavored to stand her ground with the leader he struck her in the eye and pushed and dragged her out of the seat. 2-18-44

This testimony was verified by three women who were passengers, Mrs. Ada Mae Holloway, 915 N. 21st street, Katherine Byars, 2032 Cole street and Beulah Herron, 2818a Cole street.

It was also said her assailant told her, "Now go back up North and tell them that's the way we do smart Nig-s down here."

Three white women, who said they were passengers on the bus, were offered by the defendants as witnesses to refute the charges. 2-18-44

When Miss Mack and her sister left the bus in Blytheville, Ark., she remembered the driver's words to white women on the bus—"I guess she'll cause me plenty of trouble for this." She did. She engaged a Blytheville law firm to prosecute the case. It was moved to the St. Louis court from the court in Carruthersville, Mo.

Attorneys Joseph Miller and Roscoe Anderson, representing the bus company questioned Mr. Bige Wyatt aand Mr. Coleman during the drawing of the jury panel as to their affiliation with the NAACP and March on Washington Committee. They and Richard A. Jackson, were three Negro members of the 30 jurors in the court. The former two were scratched and Jackson was not called to the box. Miss Mack was also questioned about her connection with these two organizations. She made an intelligent and composed witness during the trial which lasted a day and a half. The jury deliberated several hours. She is a member of the Mo. State Negro Teachers Association.

LYNN CASE TO GO TO U. S. SUPREME COURT

Argus - St. Louis Mo.

Segregations In Armed Units Is Fought

2-18-44

NEW YORK, N. Y., Feb. 9—The Winfred Lynn case, the only legal test yet made of the U. S. Army's racial policies, today overcame the last hurdle in its prograss to the U. S. Supreme Court. The Federal Circuit Court of Appeals here handed down a two to one split decision against Lynn. The fact that one of the three justices dissented in Lynn's favor means that firm legal basis has been laid for an appeal direct to the Supreme Court. Both Lynn's attorney, and the National Citizens' Committee for Winfred Lynn expressed themselves as gratified that the road to a clear-cut Supreme Court decision on the basic issue of racial segregation in the armed forces is now open.

Winfred Lynn, who is now a corporal in training in a West Coast camp, brought his suit a year and a half ago when he was inducted into the Army. He claims that because he was drafted in a segregated Jimcrow all-Negro quota, his induction was in violation of Section 4(a) of the 1940 Draft Act, which states that "in the selection and training of men under this act . . . there shall be no discrimination against any person on account of race or color." 2-18-44

In his dissent, Justice Charles E. Clark, former dean of the Yale Law School, pointed out that the anti-discrimination clause was put into the Act "to quiet the doubts of representatives of the colored peoples," and adds that Representative Hamilton Fish, who introduced the clause into the Act, stated in Congress that he was doing so "by request of a group of prominent colored leaders 'who represent the interests of 11,000,000 Negroes in America.'" Justice Clark insists that "the provision against discrimination in selection for color must be given meaning." He concludes: "I find it difficult to think of more apt language to express the Congressional intent."

14-1944

Salary Case Within Jurisdiction Of U. S. Court--Underwood

Daily World - Atlanta, Ga.
7-1-44

Cases which involve issues of alleged unjust inequalities of salaries in the public school systems of the state and discrimination may be tried in the Unittd States District Courts, Judge E. Marvin Underwood of this district ruled Thursday.

The ruling which was filed by Judge Underwood late Thursday came as the result of extended study of the case of Samuel L. Davis, Negro teacher, who has been seeking an injunction to prevent the Atlanta Board of Education from continuing an alleged discrimination against him and other Negro teachers in the matter of pay scale. The board entered a motion to dismiss on the ground that, among other things, the suit by Davis is one against the state and that "the court is without jurisdiction of the suit for want of diveristy of citizenship and sufficiency of amount involved and because no authorized by any federal statue." 7-1-44

CITES AUTHORITIES

Citing a number of authorities and Supreme Court decisions, Judge Underwood said: "In my opinion, these provisions of the state law, which provide for a unified system of its educational processes, clearly establish the character of defendants as a state agency and their acts as state action."

Judge Underwood also pointed out that the allegations in Davis' petition "clearly charge an unconstitutional discrimination against the petitioner and the class he certificates and experience, "by such treatment the Negroes are being denied the equal protection of the laws solely by reason of their race and color." 7-1-44

It was pointed out that the petitioner does not seek a money judgment but only seeks to halt the continuation of the alleged discrimination in pay scale.

Representing the teachers through the NAACP are A. T. Walden, local lawyer, who has been associated with Thurgood Marshall, of the New York office.
represents based solely upon their race or color and sufficently state a claim upon which relief can be granted." 7-1-44

The petition was entered by Davis "individually and on behalf of others similarly situated" against the members of the school board and the superintendent of public instruction.

Since the case was entered in this manner, Judge Underwood said that "this court has authority to entertain the suit for declaratory judgement; that the suit is not one agains the state and that the state is not an indispensable party; that the acts complained of constitute state action and come within the prohibition of the Fourteenth Amendment."

TRIAL ON MERITS

Overruling of the motion by the defendants to dismiss the suit means that unless the Board of Education appeals the decision the case will go up in Federal Court for trial on its merits.

The whole issue involved is since Davis and "others similarly situated" are regular teachers in the schools of Atlanta and are required to have teaching certificates based on the same qualifications which white teachers must meet, they should have, the petitioner claims, salaries comparable to those of white teachers.

It is alleged further that in view of the fact that qualified Negro teachers are being paid less than the white teachers with the same professional qualifications

U. S. Inferior Court

THE LYNN CASE

Age - New York, N.Y.

IN SHARP contrast to the Rabbinical and Catholic pleas for justice and tolerance, is the two-to-one decision of the United States Circuit Court of Appeals rendered Thursday in the case of Winfred Lynn. 2-11-44

The U. S. Court ruled that there is no discrimination in the practice of New York City draft authorities of requistioning separate quotas of whites and Negroes for induction into the armed forces. In the majority opinion, handed down by Judges Thomas W. Swan and Augustus N. Hand, it was pointed out that the Army's practice of segregating the two races has had statutory sanction since 1886 and that the quota induction was permissible.

In his dissenting opinion, Judge Charles E. Clark, held that the separate quota practice violated prohibitions contained in the Selective Service Act of 1940 against discrimination because of race or color.

"I think," Judge Clark said, "it unsound to overlook a violation of law as to him (Lynn) on a premise which we ourselves would reject as patriotic citizens and which is contrary to the whole spirit of the act."

The issue in the case was raised by Winfred Lynn, who was inducted into the Army on December 19, 1942 by a Jamaica, Queens, draft board. Lynn sought release from the Army on the ground that the requisition order to his draft board declared:

"Your quota for this call is the first 90 white men and the first 50 Negro men who are in Class 1A. Separate delivery lists are to be made for the white and Negro registrants delivered." 2-11-44

Earlier in the year (June 1942), Lynn had written to his draft board declaring that he refused to serve in a jim-crow segregated Army. It was not until October, however, that the FBI got around to locking him up, although his address was known to his draft board. When the FBI took him into custody, efforts were made to get Lynn to drop the case. Federal authorities finally went through with indicting Lynn with violating the draft law.

At the hearing for the violation, it was clear that no judge would even consider the case so long as Lynn was under indictment for draft-law violation, so he agreed to submit to induction in order to be allowed to test the law.

So far, the Lynn case is the only court test yet made of jim crow in the Army. The case was argued before the court by Arthur Garfield Hays, eminent liberal lawyer, and now that the Circuit Court of Appeals has handed down its decision the case will go directly to the United States Supreme Court.

Since the selective service act contains an anti-discrimination section, it would seem clear that any inductions ordered on separate quotas would be a clear violation, as Judge Clark pointed out in his dissenting opinion. It is the hope of Negroes that the United States Supreme Court will sustain the opinion of the dissenting justice in this case as the first step in the application of democracy to Negroes.

"We must realize," Attorney General Biddle said speaking here recently on minority problems, "that the problem of the relation of the white to the Negro, in fact the problems of most racial minorities are national in their scope. They concern all of us, for they go to the very roots of our democratic standards. Our national Constitution guarantees equality of treatment and opportunity to all. These principles and promises must be fulfilled in the due course of the evolution of our democratic life. Nor can we see the obligations of a defense of world democracy if our example of democracy at home, in this fundamental aspect, is neither consistent nor courageous. Race intolerance is no longer a matter merely of domestic concern. For it undermines our moral authority as a nation which apparently can profess but cannot practice democracy."

It would seem that when it comes to the matter of the Negro, however, that many of our courts, as well as national leaders who profess to love the Constitution and follow its mandates, believe that the Constitution does not apply to the Negro. 2-11-44

Discrimination by reason of race or color or religion, whether it be by private individuals, industry or any of the branches of government —the armed forces included—is contrary to the concept of democracy. There cannot continue to be two standards of democracy, one for the Negro and one for the white. There is either democracy, without exceptions or reservations, or there isn't democracy.

Mr. Cayton

wouldn't mean what they say but would have to be interpreted in the light of whether previously there had been discrimination not. Most Negroes know orators spout about "regardless of race, creed, or color" they shouldn't take it serious

Will Set Pattern for Interpreting All Laws Banning Discrimination

LINN CASE
Comics - Pittsburgh, Pa.
By HORACE R. CAYTON
3-4-44

THE case of Cpl. Winifred Linn is a honey. It shows clearer than a crystal the hypocrisies of our democracy. You wouldn't believe it in a million years, but the latest decision by the Federal Circuit Court of Appeals in New York City in this case stated that the inclusion in a law of a provision prohibiting race discrimination just doesn't mean a damn thing. Here's the way they arguebe no discrimination in the execution. Suppose Congress, in passingcution of it. the law, states that there should These words

But it's a shock to hear just that in a learned legal decision from a group of judges. But let's go over Linn's story again.

Linn was conscripted into the Army. He objected because he was drafted in a segregated, jim-crow, all-Negro quota and alleged that his induction was in violation of Section 4 (a) of the 1940 draft act. This act stated in part that ". . . there shall be no discrimination against any person on account of race or color."

DID NOT INTEND TO HALT PRACTICES 3-4-44

The case was tried in a lower court which allowed the Army attorneys to get away with some technical shenanegans which prevented the real issues of the case from being heard. The Circuit Court of Appeals, however, unanimously rejected these technicalities and agreed that the case, as claimed by Linn's lawyers, raised the basic issue of racial discrimination.

JUSTICES Thomas Douglas and A. N. Hand made up the majority of the court. Their decision was to the effect that Congress did not intend, in passing Section 4 (a) of the draft act, to interfere with racial segregation either in selection or training of men for the Army. They cited "the Army's long established policy of segregating enlisted men into colored and white units as justification of jim crow draft quotas." They stated further "If the Congress had intended to prohibit separate white and Negro quotas and calls we believe it would have expressed such intention more definitely than by the general prohibition against discrimination appearing in Section 4."

ONE JUSTICE DISSENTS

In dissenting, Justice Charles E. Clark declared that "the legislative intent does seem to be disputable on the words of the statute itself, but if any doubt exists I think it must be dispelled by a consideration of the legislation's history." He then pointed out that the anti-discrimination clause was put into the act "to quiet the doubts of representatives of the colored peoples" and that the representatives who introduced it into the act did so at the request of groups of prominent Negroes. Justice Clark concludes his opinion by stating: "I find it difficult to think of more apt language to express the Congressional intent." 3-4-44

THERE you have it, my friends. You're not supposed to believe what the English language means if its preference is to the Negro. Let me show you what I mean. Suppose the Congress passed a law, say, regulating some industry and inserting a clause that children under 18 should not be allowed to work in breweries. In that case the intent of the law is clear and no one would dispute that the Congress wanted to regulate the brewery industry and incidentally, provide that no child under 18 could work in them. It would be no defense against the law to point out that children under 18 had traditionally worked in breweries. Its words would mean what they said and there would be no delving around to see if that was the traditional and customary employment practice of that industry. Not so with the Negro. The statement that there should be no race discrimination must be interpreted in view of the past policy of race discrimination.

A CASE IN POINT 3-4-44

Or take another case. Say that, as is true in many states, women are not allowed to work long hours at certain hazardous occupations. These laws were passed because these occupations often led to the deterioration of the health of women. Such provisions have often been written into other statutes regulating the industries. There would be no question about that, for any eighth grade graduate would know what the language meant and therefore what the law intended. But if it were about Negroes, again it would be open to a lot of judicial review and Jesuitical logic.

I WONDER how one could go about changing the traditional practice of race prejudice by legislation if the majority opinion of this Circuit court is upheld by the Supreme Court of the United States. One thing this Linn case will do, in addition to testing the legality of our jim crow Army setup of induction and training, will be to determine whether legislation concerning racial discrimination against Negroes means what it says. It will determine whether we will always have to go back to see what the practice is and interpret new legislation, no matter how clear the language, in terms of our most important American institution—the institution of racial segregation and discrimination.

Ky. Teacher Wins Bus Suit

Courier—Pittsburgh, Pa.
4-8-44

LOUISVILLE, Ky.—(ANP)— According to the records of the United States District court for Western Kentucky, the claim of Miss Anna Belle Thomas, teacher in the Jefferson County school system, was successfully settled out of this court last week in favor of Miss Thomas just prior to the scheduled trial of the case.

Miss Thomas sued the Great Lakes Bus company last September for $15,940 alleging that on March 18, 1943, she was a passenger on one of the company's buses from Columbus, Ohio, en route to Louisville, when due to the carelessness and negligence of the driver, she was compelled to get off the bus near Bedford, Ky., in a driving rain storm when the bus became stalled in high water across the highway.

The petition of Miss Thomas, prepared by Charles W. Anderson, her attorney, further stated that as a result of being in the water she contracted pneumonia and suffered a severe injury to her knee and much pain and suffering.

Victim Of Bus Jim Crow Wins Suit

Informer—Houston, Tex,
4-1-44

DALLAS — Forty-three-year-old W. B. Burley, Holdenville, Oklahoma, school bus driver and janitor, will collect a judgement of $59.83, as a result of his "civil rights" lawsuit held in Federal Judge W. H. Atwell's court, in which Burley sued the Sunshine Bus lines for $6,000 damages because he was put off a bus between Dallas and Terrell last October.

Burley declared that he and some fellow passengers were put off the bus at Terrell and told to wait for an oncoming bus that wasn't crowded. He said that he and some more passengers waited at Terrell, and during their wait, several busses passed but they were refused seats, while new white passengers were put on.

Burley said that he had to hire a taxi to drive him to Dallas. The delay caused him to miss connections in his travel and he had to spend the night in the station sleeping on the bench. On the other hand he lost a day's work and had to pay a substitute who worked in his place at the school. 4-1-44

The bus company witnesses testified that Terrell was a rest stop and that the incoming busses were heavily loaded and seat occupants were allowed to have first choice at their old seats before new passengers were taken on. They said both white and Negro passengers were left behind.

New York Court Allows $5,000 Railroad Suit

Journal & Guide
Norfolk, Va.
12-9-44

NEW YORK—In a two to one decision, the United States Circuit Court of Appeals on Wednesday, Nov. 29, held that the Texas and Pacific Railroad could be sued in New York, thus reversing the ruling of the District Court of the Southern District of New York in the suit for $5,000 brought against the railroad by Miss Yolanda Barnett.

Miss Barnett, Negro staff member of the Young Women's Christian Association brought suit against the railroad alleging that a conductor of the defendant company ejected her on Feb. 11 from the dining car of the Sunshine Special traveling through Texas.

Ruling that it had no jurisdiction because the company did not do business in New York, the District Court had dismissed the action.

Judge Jerome Frank, writing the opinion for the Circuit Court of Appeals held that the railroad had a place of business in New York and could be sued in this state. Judge Charles H Clark concurred and Judge Thomas W. Swann dissented.

14-1944

U. S. Supreme Court

In The Nation

Times-Newyork N.Y.

Self-Reexamination Continues in the Supreme Court

4-4-44

By ARTHUR KROCK

WASHINGTON, April 3—The eligibility requirements for voting in the Texas Democratic primaries are a device to keep Negroes from participating. But the candidates chosen in these primaries have many legal and other advantages embedded in State law, and the sources of the eligibility requirements—the Democratic State Convention—is a State agent. Therefore, State law is the basis of electoral exclusions which violate the Fourteenth and Fifteenth Amendments.

This is what eight of the nine members of the Supreme Court decided today when they nullified the Democratic primary voting requirements in Texas and at the same time overruled a previous decision of the court.

The Omitted Reason

Justice Roberts, the sole dissenter and author of the Grovey case decision that was overturned (though unanimous, and handed down only a few years ago), pointed out that no change had since occurred in the facts. Justice Reed, who spoke for the eight, conceded it, but said that the court must avail itself of any opportunity to correct past errors. However, neither he nor Justice Roberts mentioned the real reason for the overturn. It is that the common sacrifices of wartime have turned public opinion and the court against previously sustained devices to exclude minorities from any privilege of citizenship the majority enjoys.

But the court must find some sort of legal pathway to self-reversals, and this was provided a while ago when it held (in United States v. Classic) that the primaries in Louisiana are an integral part of the process of choosing citizens to hold office. Immediately counsel for the Texas Negro, who was barred from a primary in 1940 at which Democratic candidates for Congress were among those to be selected, claimed an inconsistency between this ruling and that in the Grovey case, which Justice Roberts decided for a unanimous court and which he alone stood by today. On this argument a writ of certiorari was granted for an appeal from the lower court, which, following the Grovey case, had sustained the right of Texas Democrats to exclude Negroes from their primaries.

Down to Bedrock

The appeal was successful because the Supreme Court took the bandage from its eyes and recognized the vital link between the Texas Democratic primaries and election to office. In that State most often the primary choice of the Democrats is assured of election. Therefore, in effect, citizens denied the opportunity to participate in this choice lose their chance to say who shall hold the offices. And, when denied this opportunity because of race, color, religion or previous condition of servitude, they are in effect deprived of the protections of the Constitution against such an exclusion. 4-4-44

It must be remembered that, though the laws of Texas hold that the Democratic party is a "voluntary association," with the right to fix its own membership qualifications, it is required by statute to hold primaries and these are certified and guarded by the State. This, held Justice Reed today, when taken in connection with the fact that the same laws reserve to the State the right to compel "fair methods and expressions" in the choice of primary nominees, makes the Democratic party the agent of the State and puts its membership regulations under the State and Federal Constitutions.

The Fourteenth Amendment, he noted, forbids the State enforcement of any law abridging the immunities of citizens, and the Fifteenth specifically forbids abridgment for color. By Texas law the Democratic State Convention was given the power to fix party membership rules, which made it the agent of the State. Consequently, he continued, an agent of the State was specifically barring Negroes from participation in an integral part of the process of electing Texans to Federal and State office. This violates the Federal and State Constitutions, was his conclusion and that of seven of his brethren, including the Chief Justice, who voted with Justice Roberts in the Grovey decision.

History of Exclusion

Texas, like other Southern States, had many difficulties with the Federal courts before the device was contrived that the Supreme Court, reversing itself, struck down today. Twice Texas attempted directly to exclude Negroes from Democratic primaries by law, and these statutes were nullified. Then it empowered the Democratic executive committee to fix the membership rules, but the Supreme Court held that the committee was an agent of the State, being chosen by State law. Finally the Democratic State Convention was hit on as the source of power to limit the primaries to white voters, and in the Grovey case it was decided that since the convention was not created by law it was not an agent of the State and could make the Democratic party a "voluntary association" which could legally be all white, especially since the candidates and not the State are assessed for the costs of the primaries.

But today the eight justices said that this scheme was still a case of the State's power being delegated to a party, which could and at times did make the party's action the action of the State. On that broad ground the exclusion method was brought under the ban of the Constitution. Now, States which wish to give legal effect to their party primaries and surround them with all protections must find some other way to keep out, if they can, avowed party members they don't want.

Exclusion Of Negroes From Voting Voided

Daily World

Atlanta, Ga

Historic 8-To-1 Opinion Delivered By Justice Reed

4-4-44

HARRY S. McALPIN
(Washington Correspondent to the Atlanta Daily World and NNPA)

WASHINGTON — The Supreme Court Monday ruled the exclusion of Negroes from the Texas white primaries illegal. The decision was 8 to 1. Justice Roberts was the only dissenter and wrote a minority opinion.

Directly overruling the prevous Grovey vs. Townsend decision, the court held that primaries are part of the machinery of choosing officials and are subject to the same tests to determine the character of discrimination in or abridgement of the right to vote.

"The United States is a Constitutional Democracy," declared the majority opinion. "Its organic law grants to all citizens a right to participate in the choice of elected officials without restriction by any state because of race. This grant to the people of the opportunity for choice is not to be nullified by a state through casting its electoral process in a form which permits a private organization to practice racial discrimination in the election. Constitutional rights would be of little value if they could be thus indirectly denied."

ACTION OF STATE

The privilege of membership in a party, the court stated, may be no concern of a state as was said in Grovey vs Townsend. "But when as here that privilege is also the essential qualification for voting in a primary to select nominees for a general election, the state makes the action of the party the action of the state."

Answering the dissenting opinion of justice Roberts, which was based on the need for consistency, the court declared: "In reaching this conclusion we are not unmindful of the desirablility of continuity of decision in constitutional questions. However, when convinced of former error, this court has never felt constrained to follow precedent" this has long been accepted practice, the court declared.

"This is particularly true when the decision believed erroneous is the application of a constitutional principle rather than an interpretation of the constitution to extract the principle itself," the opinion continued. "Here we are applying, contrary to the recent decision in Grovey V. Townsend the well established principle of the fifteenth amendment, forbidding the abridgement by a state of a citizens right to vote. Grovey V. Townsend is overuled."

The decision was delivered by Justice Reed, with justice Frankfurter concurring in the results.

The long-awaited decision had far-reaching implications in Southern states where white Democratic Party primaries are usually tantamount to election.

The majority opinion said:

"When primaries become a part of the machinery for choosing officials, state and national, as they have here, the same tests to determine the character of discrimination or abridgement should be applied to the primary as are applied to the general election.

TEXAS TO SEEK NEW HEARING IN NEGRO VOTE SUIT

Tribune-Chicago Ill.

4-5-44

Governor Against Further Legislative Action.

Austin, Tex., April 4 (AP).—The state of Texas will ask for a rehearing on the United States Supreme court ruling that Negroes can vote in Texas Democratic primaries, Gov. Coke R. Stevenson said today after a conference with Atty. Gen. Grover Sellers.

The governor ruled out the possibility of a special legislative session to repeal primary election laws on the grounds that the court's decision was sufficiently broad to prohibit party exclusion of Negroes even if all state statutes regulating party functions were repealed.

He said it would be within the legislature's power to increase the poll tax or specify a literacy test as a voting prerequisite, but added that any expedient which might be shown in court to have the effect of drawing the color line probably would not stand up.

Predicts "Way Out."

The state executive committee will meet again before the May 23 state party convention and George A. Butler, committee chairman, predicted "we'll find a way out of this."

Rep. Sumner [D., Tex.], chairman of the house judiciary committee, said in a statement at Dallas that he was much concerned over "the intensive racial consciousness and growing racial antagonism and friction which are developing in this country."

Saying he had no direct comment to make on the Supreme court decision, he described it as one element in a larger picture.

"There are two enemies to every progressive movement," Sumner said. "Those who do not want to make progress and those who want to go too fast.

"The latter are by far the most hurtful and hindering. They move out ahead of substantial popular support. They are disposed tremendously to exaggerate what can be accomplished with the mandate of legislative bodies and the judgments of courts." 4-5-44

"Purely Political Decision."

Sen. O'Daniel [D., Tex.] in a statement released thru his publicity agent in Dallas, said that "the decision is nothing more than a purely political decision dictated by the political dynasty in Washington responsible for their appointment."

The decision, the statement added, "is the logical result of keeping one man in the President's office long enough to allow him to pack the court with his obedient slaves.

"The Constitution of the United States not only permits white people to organize into a party and hold a primary election, but it goes further than that, it guarantees them the right to do so. The Negroes of Texas have a perfect right to organize a Democratic Negro party and hold a primary to determine whom the Negroes will support in the general election, and

REHEARING SOUGHT ON NEGROES' VOTING

Rep. Patman [D., Tex.], commenting in an interview in Texarkana, Ark., said today "the two major political parties seem to be trying only place to go would be the Republican party, which is certainly no more favorable to outbid each other for the Negro vote."

"One cannot say by no stretch of the imagination that if the Negroes were to do this, they would be driving the white people of any party because of this "The interest in the Negro race situation," he said. "The Democratic party will quit the point. could you say that it would be the Republican party, which is certainly their constitutional rights."

Bidding for Negro Vote.

Times - New York N.Y.

Texas Governor Against Steps by Legislature to Offset Supreme Court Ruling

4-5-44

Special to THE NEW YORK TIMES.

AUSTIN, Tex., April 4 — Gov. Coke Stevenson announced today that Attorney General Grover Sellers will file a motion for rehearing with the Supreme Court on yesterday's ruling that Negroes must be allowed to vote in Democratic primaries in Texas.

Democratic party officials expressed the belief, however, that there was little chance that the court would grant a rehearing.

Governor Stevenson ruled out the suggestion of a special legislative session to increase poll taxes or otherwise change election procedure to exclude Negroes. He expressed the belief that any rule specifically excluding Negroes would be invalid. He also believed that a return by the State to the convention system of choosing candidates would not stand up.

The State Democratic executive committee will meet before the State party convention to be held here May 23. Chairman George Butler said: 4-5-44

"We will find a way out of this."

Charles E. Simons, secretary of the State Committee, characterized the court's ruling as "a political opinion by a politically packed court in election year."

100,000 Entitled to Vote

Slightly more than 100,000 Negroes would be entitled to vote, a survey of poll taxes and exemptions shows. Texas this year has more than 1,500,000 eligible voters, but not more than 800,000 are expected to turn out in thee absence of any great interest in State contests.

In Dallas, Senator W. Lee O'Daniel characterized the Supreme Court's decision as "nothing more than a purely political decision dictated by the political dynasty in Washington responsible for their appointment."

The Austin American-Statesman said editorially that the ruling was likely to make a moot question of the State Democratic convention's proposal to eliminate the poll taxes for service men, since the "decision holds that the Federal Government, not the party, has the right to make the rules."

Louisiana Governor Brief

BATON ROUGE, La., April 4 (AP)—Gov. Sam Jones today had a comment of only eight words on the Supreme Court decision on Negro voting:

"We've always handled that question—and always will," he said.

ATLANTA, April 4 (AP)—Negroes will undertake to vote in Georgia's Democratic primary July 4, C. A. Scott, chairman of the Public Affairs Committee of the National Association for Advancement of Colored People said today.

He called the decision "the best thing that could have happened to the South as a whole." "If the court had not ruled so," he said, "the Negroes eventually would have set up a separate Democratic party, wtih resulting friction between the races. This will curb the train of increasing tension."

South's Question, Says Pepper

MIAMI, Fla., April 4 (AP)—Senator Claude Pepper said today that Southerners will not "allow matters peculiar to us to be determined by those who do not know and understand our problems."

"The South will allow nothing to impair white supremacy," he declared in commenting on the Supreme Court opinion.

"I think the Florida law is different from the Texas law on voting in primaries, and therefore the Supreme Court decision should not affect Democratic primaries in Florida," he said. " In Florida not the State but the Democratic party determines the qualifications of members of the party." 4-5-44

ALCU Points to Mexicans

The American Civil Liberties Union said yesterday that the Supreme Court decision also applied to "tens of thousands of Mexican-Americans equally excluded."

The union said Mexican-Americans in Texas number almost 1,000,000 and added that "although the ruling opens Democratic white primaries to Negroes and Mexican-Americans, they still face in Texas and elsewhere in the South formidable obstacles of the poll tax and discriminatory educational tests."

The union announced it is supporting suits in the Texas courts attacking alleged discrimination against Mexican-Americans.

And Now, Florida!

Daily Worker - New York, N.Y. 4-12-44

THE United States Supreme Court one week after abolishing the Texas "white primary" announced in a seven-to-two decision that Florida's "labor fraud" law violates the 13th Amendment of the United States Constitution.

Florida's slave code, enacted in 1919 as Sections 7300 and 7304 of the General Laws, have been "responsible for the imprisonment of many . . . a Negro for no other crime than leaving his employer and for nothing more nor less than simple debt," wrote a reporter in a "New York World" expose in 1923. Organized labor in Florida has frequently tried—and as frequently failed—to test this law in the Federal courts. Now, 21 years after its enactment, the Supreme Court decrees that "no state can make the quitting of work any component of a crime, or make criminal sanctions available for holding unwilling persons to labor." 4-12-44

This decision—as was true of the "white primary" opinion and as will be true again when the poll tax is abolished—will further stimulate enlightened and progressive sections of the South. It will intensify their feeling of solidarity with the rest of democratic America.

A THING OR TWO

When FDR Reversed the Supreme Court

PM - New York, N.Y. 4-7-44

WASHINGTON.

The State of Texas has tried many devices for excluding Negroes from its Democratic primaries, the only election there that counts, since Texas Republicans don't.

A State law of 1923 declared Negroes ineligible to participate in a Democratic primary. This law was declared unconstitutional by the U. S. Supreme Court in 1927.

The State legislature in 1927 thereupon substituted another provision permitting the executive committee of each party to determine who might participate in its primary. The Democratic state executive committee then adopted a resolution barring the Negro voter. In 1932 this also was ruled unconstitutional by the U. S. Supreme Court.

Loophole Left

The 1932 decision left a loophole. The Court, in denying that a State executive committee could exclude Negro voters, said "Whatever inherent power a State political party has to determine its membership resides in the State convention." The State convention of 1932 voted to bar Negroes from the Democratic primaries. This time the ruse was successful. The Supreme Court in 1935 upheld it.

Now the Supreme Court, 8-1, has reversed itself. "Under our Constitution," the majority said this week, "the great privilege of choosing his rulers may not be denied a man by the State because of his color." Of the action taken by the State convention, the Court declared, "Constitutional rights would be of little value if they could be thus indirectly denied."

Of the nine men on the Court at the time of the 1935 decision, only two remain. One is the Chief Justice. The other is Justice Owen J. Roberts. The Chief Justice chose to overrule that decision. Justice Roberts dissented. 4-7-44

Roberts' Dissent

In his dissent, Justice Roberts said the soundness of the 1935 decision "is not a matter which presently concerns me." Justice Roberts is concerned because the reversal of a decision "announced about nine years ago, tends to bring adjudications of this tribunal into the same class as a restricted railroad ticket, good for this day and train only."

The Supreme Court of the United States is not bound by past decisions, but it must give them weight. The Justices are faced in almost every crucial case with a choice between two conflicting necessities. There must be stability and continuity in the law. There must also be flexibility and change. The one is necessary to keep society orderly. The other is necessary to keep the law alive.

The choice between them is not easy, and the Judge cannot solve his problem in the law library. He is on his own. It is at this point that the Judge becomes statesman or politician; the term applied will depend on whether you like the choice made.

Reversed a Decision

Justice Roberts has been confronted with this test before. He was once responsible for reversing a decision that was not nine years old, like the one in this Texas case, but little more than nine months old. 4-7-44

On June 1, 1936, the Supreme Court held minimum wage laws unconstitutional. On Mar. 29, 1937, it held them constitutional. Both times the Court voted 5-4 and the same nine Justices took part. The only Justice who changed his mind —and changed our constitutional law with it—was Justice Roberts.

Justice Roberts, by changing his mind, helped defeat the President's court plan. The 1937 reversal told the country, "Mr. Roosevelt need not add new judges to the Court to make it keep up with the times." This week's reversal tells black Americans, "The rights that Negroes are helping us to defend in the field shall not be denied them by subterfuge at home." As judicial statesmanship, this week's reversal need not fear comparison with that earlier about-face.

I. F. STONE

Ballot-Box Stuffing Hit By High Court

(Washington Bureau of Atlanta Daily World and NNPA)

5-2 4-7-44

WASHINGTON, The six to election Supreme groes the ballot-box south.

three decision Court this week that stuffing is punishable as a Federal offense under criminal statutes controlling the right to vote spiracy to is being interpreted as indication the election of that the National Association for deds violates the Federal law pro-

the Advancement of Colored hibiting conspiracy to People if on the right track inoppress; threaten or intimidate", urging criminal prosecution of any citizen in the exercise of his officials who deny Ne- constitutional privges. The court ruled that a con-

14-1944

U. S. Supreme Court

The Tide of Democracy

Daily Worker, N.Y.

SENATOR DEFIES LAWS UPHOLDING NEGROES' RIGHTS

Chicago Daily Tribune Chicago, Ill.

Maybank Blasts High Court's Decision.

4-14-44

[Chicago Tribune Press Service.]

Washington, D. C., April 13.—Sen. Maybank [D., S. C.], staunch New Dealer and supporter of President Roosevelt, hurled defiance at congress and the Supreme court today in a senate speech on the right of "our southern democracy" to rule the Negroes.

Attacking the recent Supreme court ruling that Negroes may vote in the Texas Democratic primaries, and rebuking "agitators who work to upset our election laws," Maybank told the senate:

"The white people of the south will not accept these interferences. We are proud of our section. We know what is best for the white people and the colored people. We are going to treat the Negro fairly, but in doing so we do not intend for him to take over our election system or attend our white schools.

4-14-44

Defies Court Decision.

"Regardless of any Supreme court decision and any laws that may be passed by congress, we of the south will maintain our political and social institutions as we believe to be in the best interest of our people."

Maybank said he had been attacked in his own state of South Carolina for not denouncing the election law "agitators." He said he had refrained from such action until now because of the war emergency, but told the senators that he had opposed the movement for a federal anti-lynching law.

He added that he was one of the southerners "singled out" last year and summoned back to the senate to vote on the anti-poll tax bill, which he termed "legislation against the Constitution, against state rights, and against our southern democracy."

"These agitators," he said, "have continued to work to upset our custom of segregation, which has proved mutually satisfactory to the vast majority of both races in South Carolina."

Fears Disunity.

Charging that controversy over the racial question is causing disunity in the war, Maybank said that the people of his state are profoundly disturbed by the situation.

"In my opinion," he said, "these agitators are making a serious mistake when during the stress of war they seek by law to abrogate customs which are as old and deep rooted in the south as our civilization itself. 4-14-44

"I regret that the Supreme court has seen fit to reverse its previous decision with reference to the rights of the states in selecting those who are to serve them in public office."

Constitution

How the South Reacts to Texas Primary Ruling

Atlanta, Ga.

4-4-44

Southern reaction to a supreme court decision holding that Negroes may participate in Democratic primary elections ranged from cautious noncommittance to stubborn determination to preserve traditional white control of election machinery.

The high court, in a decision on a Texas case of far-reaching consequence in southern states where Democratic nomination is equivalent to election, held that when primaries "become a part of the machinery for choosing officials, state and national," the exercise of voting privilege may not be abridged by reason of race or color.

Regardless of what the United States supreme court may rule on a Texas primary, Negroes are not qualified to vote in Georgia's white Democratic primary July 4, Chairman J. Lon Duckworth of the state Democratic committee, said.

DUCKWORTH'S STATEMENT

"I do not know what was involved in the Texas case," Duckworth said yesterday. "But, there has been no contest of Georgia's white Democratic primary rules and I do not see that a court ruling on a primary in another state would necessarily apply to a Georgia political party."

The chairman said any political party is authorized by Georgia law to fix its rules for a primary. Under this law, the Democrats restrict their primary to white voters. Duckworth said the Negroes and any other race, color, or creed have the right to hold their own primaries and fix their own rules. These rules govern political parties in their own primaries and do not affect the general election, he added.

Duckworth said he was informed that Texas primaries are operated differently, being under legislative jurisdiction, instead of operating as a Democratic party. This and other things might have entered into the court's decision oin the Texas primary, he pointed out.

SITUATION IN GEORGIA

A United States senator and 10 congressmen are to be elected this year in Georgia, where Democratic nomination is tantamount to election. There are races for the senatorship and four congressional posts.

Attorney General T. Grady Head declined comment as to what effect the ruling would have on Georgia until he is asked officially for a ruling.

In Washington Senator George, Democrat, Georgia, said he feels that party primaries should be regarded as private affairs of a voluntary association of groups of voters, not subject to control of the courts. He said that "this decision seems essentially unrealistic and inevitably leads into a field into which the courts ought not to go." 4-4-44

Representative John E. Rankin, Democrat, Mississippi, saw "one of his greatest fears realized" in the decision. "The congress of the United States is the last hope of constitutional government as we know it," he predicted.

Senator John H. Overton, Democrat, Louisiana, asserted that "it's very unfortunate. The effect of the opinion would tend to force the Negro vote upon the south. We're no going to submit to Negro voting in our elections. We don't need white primaries nor poll taxes. We can keep them out on educational qualifications."

Governor Chauncey Sparks, of Alabama, said the south "can adapt itself" to a United States supreme court decision that Negroes may vote in Texas primaries, if the decision "leaves with the states the right and authority to determine qualifications."

If the decision does not leave such authority to the states, the Alabama governor declared, then it "is a blow to friendly relations between the races in the south, and bodes ill."

Attorney General William McQueen said he would have no comment pending receipt of a copy of the Supreme Court's opinion.

E. R. Combs, of Richmond, Va., national committeeman, said "we in Virginia have never undertaken to bar Negroes from Democratic primaries if they claim to be Democrats." Democratic primaries in Virginia, he pointed out, are paid from public funds and not by the party.

IN ARKANSAS

J. C. Barrett, chairman of the Arkansas Democratic state committee, said he wanted to study the decision before reaching a conclusion.

"Texas primaries are under legislative jurisdiction," Barrett said. "Arkansas operates differently. In Arkansas the Democratic party, as a party, calls the primary and makes certain rules. Whether the opinion was broad enough to cover both situations is a subject to be studied before an opinion can be expressed."

Arkansas will elect a United States senator and seven congressmen this year. Six candidates are entered in the senatorial races and several congressional contests are developing. 4-4-44

In several states, including Texas, officials and party leaders withheld comment, pending study of the court's decision.

In Mississippi, however, Chairman Herbert Holmes, of the Democratic executive committee, declared: "We still have a few state's rights left, and one of our rights is to have Democratic primaries and say who shall vote in them. The supreme court or no one else can control a Democratic primary in Mississippi."

Florida's Democratic committee chairman, Tom Conely, declared

Governor Coke R. Stevenson

TEXAN'S STATEMENT 4-4-44

Texas, commented later.

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"We'll certainly resist, if possible

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Florida's Secretary of State

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Negroes

South Carolina's party rules

that only a "white Democrat" is eligible for membership.

However, one leader who declined to be quoted said

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John Fred Odom, chairman of

Louisiana's state

mission.

4-4-44

Democratic

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in primaries. Available South Carolina Democratic leaders withheld comment. 4-4-44

IN TENNESSEE

Russell R. Kramer, chairman of the Tennessee Democratic executive committee, foresaw no effect there. "There is nothing in our statutes about voting that pertains to race," he said, "and Negroes do vote in Tennessee primaries."

North Carolina does not bar Negroes from primary elections, and President Frank P. Graham of the University of North Carolina commented that "a gradually increasing number of educationally qualified Negroes are voting each year in the primary and general elections."

In Virginia, E. R. Combs, national Democratic committeeman said the party had "never undertaken to bar Negroes from Democratic primaries if they claim to be Negroes."

Harlemites Call High Court Ruling 'Great Advance'

Daily worker, N.Y.

By John Meldon

Harlem's citizens, the greatest single Negro center in the world, is highly encouraged by the U. S. Supreme Court decision Monday outlawing the notorious "white primary" system in Texas. 4-5-44

A Daily Worker reporter and photographer stood at the corner of 136th St. and Lenox Ave., yesterday and talked to a representative cross-section of Harlemites, asking their opinions on the historic high court ruling. We talked to a girl city clerk, a musican, a laborer, a woman city investigator for the Department of Hospitals, a young shipyard worker, a woman employe in a plane plant, advertising man and others.

They were unanimous that the court decision is a great step forward in smashing the remaining obstacles that stand in the way of making this country a truly great democracy. Almost all those interviewed felt that although the highest court of the land ruled against the jim-crow Texas practice which prevented Negroes from participating in the Democratic primaries, the decision will now have to be enforced by the plain folk, white and black, in the south. 4-5-44

WHAT THEY SAID

Here are their opinions:

Julia Richmond, 408 W. 150th St., airplane worker:

"The Supreme Court's decision is something we have felt was needed for a long time. Now the next thing that has to go is the poll tax. The court's decision on the primary will make a great change in the South. There will be more justice and more democracy for the colored people.

Elijah Powell, 588 Lenox Ave., government patrolman:

"It's a good decision, a great decision. It can be built up into a powerful step against the unfair poll tax. I feel greatly encouraged and I know that all the Negro people must feel the same way.

Miss Nellie R. Calloway, city investigator for the Hospital Department:

"I look on the court's decision as helpful in changing the South from a white-ruled oligarchy to a people's democracy. Of course, the Supreme Court was right! Doesn't the Constitution say that no man shall be penalized because of race or color? What the Negroes and every fair-minded white person has to watch out for now is that men like Bilbo and Rankin don't block the decision from being put into effect.

Alex Lawrence, 343 St. Nicholas Ave., occupation not stated:

"The so-called Texas white primary and similar discriminatory laws all over the country, when added up, amount to a strangling yoke around what could be a great democracy. The Supreme Court verdict banning the Texas discrimination is a good beginning in the right direction and shows what can be done when democratic-minded people of all races get together. This is a blow to the Solid South—solid white poll tax leaders against a big section of the South's population. I feel hopeful with this decision."

Anthony Tuck, 505 Lenox Ave., musician and union member: "It's up to white labor now to help enforce the court decision. If we put the Supreme Court ruling into effect, it will go a long way in finally winning the battle against the poll tax and running out of office the streamliners of hate—the misrepresentations of the people like Dies, Bilbo and Rankin."

Geraldine Smith, 409 Edgecomb Ave., city clerk: 4-5-44

"You can say that I feel that the Supreme Court decision will give the colored people new hope, but the battle for full rights for my people still has a long way to go. However I do feel very much encouraged."

James Long, 135 West 123rd St., laborer: "It's one of the grandest things that's happened so far for my people. Now let's keep fighting to make this the greatest country on earth, a country where all men are free and equal. It can be done."

James Wilson, 56 W. 139th St., shipyard worker: "This decision will have a far reaching effect. It opens the road for other victories in other states where discrimination against Negroes is rife. We are fighting for world-wide democracy. How about doing a little more house-cleaning at home—about cleaning out those Congressmen who help make white primaries and the poll tax possible?"

Reginald Pierrpointe, advertising employe, Amsterdam News: This means a lot to the Negro people. It shows that there is a growing American consciousness to world events. We've still got a long way to go to catch up with the democracies of England, Russia and the Scandinavian countries. We've got more resources and possibilities for democracy here than anywhere in the world. Now we've got to learn how to realize those potentialities."

New York Republic, N.Y.N.Y. 5-15-44

. . . Sellers [Attorney General of Texas] declared the Court's opinion was so broad that apparently there was no possible device to exclude Negroes from party primary elections as long as the state on the general election ballot recognizes the party nominees.

"In view of this opinion, I would not be surprised to see the Jim Crow law go next," Sellers asserted. – *AP dispatch from Austin, Texas.*

An Opportunity And A Challenge

Daily worker, N.Y. 4-5-44

The recent decision of the United States Supreme Court ruling that Negroes are entitled to vote in the primary elections must be looked upon by Negroes of our region as something far more than a door of opportunity opened to them. Verily, it presents a mighty challenge to all of us, interested in and committed to the principles of clean and honest government, to begin anew to bestir ourselves in the schools and colleges, in our civic and social clubs, private and public, to the end that these groups will emphasize and stress always, the sacredness of the ballot.

Resentment over the decision in the South is based partially upon the fear that Negroes, certain classes of them, will be given too much power if they are allowed the use of the ballot. Another feeling is that this class of Negro voter is purchasable. In some instances in restricted areas in the North, experience has shown that this thing did happen. But at the same time, it happened with the white voters, too. On this point the Macon (Ga.) News, a white daily, takes a most realistic position, we believe. It says: "There is no reason for the South to become unduly excited over the decision of the Supreme Court of the United States that Negroes are entitled to vote in primary elections. Resentment over the decision in the South, of course, is understandable. And, while tradition plays a part in our reaction, such feeling is not wholly a throwback to the Civil War and Reconstruction."

The News notes further: "Allowing the vote to Negroes of character and intelligence is not incompatible with the genius of American institutions. Denying it solely on account of color is inconsistent with the American ideal of fair treatment for all. We cannot honestly fight a war for justice and freedom while, on account alone of racial prejudice ,we are denying the lawful rights of citizenship to a large segment of our own population.

"The Supreme Court is right. And we shall be grievously wrong if we follow the excited rantings of our politicians and disregard or attempt to nullify its decision," the News concluded. 4-5-44

All of this leads us to advocate strongly that our schools, colleges, our churches and all social and uplift organizations, should begin an educational campaign, emphasizing, not merely the ballot but also the right use of the ballot. For indeed no purchasable group in our population can be tolerated.

Inescapable And Inevitable

In an eight-to-one decision Monday, the United States Supreme Court moved to invalidate the Democratic White Primary in Texas by stating that "the great privilege of choosing his rulers may not be denied a man by the state because of his color." The decision came after a prolonged struggle, led by Lonnie Smith, who contended that he was denied the right to vote in a 1940 primary by Houston, Texas election judges. Smith was ably assisted by the complex life of the National Association for the Advancement of Colored People in the fight.

The statement made public here Tuesday by C. A. Scott, Chr. Public Affairs Committee of the Atlanta N. A. C. P. is expressive, we believe, of the great concensus of informed opinion in the South. "Exclusion of Negroes from the primaries makes it profitable in some instances for agitation of the race question. This creates ill-will and disunity and increases interracial tension. For the past 12 years the majority of Negro votes in the north and south, have supported the Democratic Party. They believe in the leadership of President Roosevelt, who has done more for them than any president since Abraham Lincoln. The recent Supreme Court decision may well be considered our Second Emancipation," Mr. Scott said. 4-5-44

And in a manner which is both cautious and firm, Chairman Scott said: "I hope the white people of the South will accept the spirit and meaning of the decision because I think it will bolster the morale of Negroes in the armed services and will eventually eliminate race-baiters from the political scene and from public office.

"If the state requires a certain electoral procedure, prescribes a general election ballot made up of party nominees so chosen and limits the choice of the electorate in general elections for state officers, practically speaking, to those whose names appear on such a ballot, it endorses, adopts and enforces the discrimination against Negroes practiced by a party entrusted by Texas law with the determination of the qualifications of participants in the primary," said the majority opinion. 4-5-44

The decision is far-reaching and momentous for Negroes and for the South. It means that arbitrary rules, based solely upon race and color as prerequisites for voting, no longer have the official sanction of our national government. It means that the primaries, in other southern communities as well as in Texas, operate basically in violation of and in conflict with the individual right. And finally, the Primaries operative as they are now in most

Theory Versus Condition

LAW CAN BE DECLARED, but respect for and observance of the law come only from public sentiment. Prohibition was the law of the land for fifteen years or so. It was declared law by the States themselves, by Congress and by the Supreme Court. But it was only book law. It was openly and flagrantly defied, because a sufficiently large percentage of the people held it in contempt.

Whether or not we would have it so, whether or not abstract justice should prevail over concrete and practical conditions, the decision of the Supreme Court opening Democratic or white primaries to Negroes must rest on public opinion in those communities in which its application involves a political and social revolution.

Negroes as a race were disqualified from voting in sections in which they predominated for practical reasons. While there were many Negroes whose intelligence, education and character qualified them for every civil right, the great majority of them lacked the requisite education and character development.

The ballot in their hands was a dangerous instrument and the exercise of it had been not only a scandal but a menace to good government. The fault lay not with the Negroes themselves so much as with the unscrupulous whites who used them as tools toward satisfaction of their schemes and ambitions.

It was in the desperate effort of Southern leaders to free our elections from corruption and to cleanse our Government that the Negro as a race was disqualified by means of the Democratic or white primary. In these measures there was grave injustice to many Negroes individually. But also in them was the greater good of the greater number of citizens, including, we believe, the Negroes themselves.

Can the practical aspects of a troublesome, deep-seated condition be abolished by the dictum of a court? We doubt it. The condition is one that will yield only to the processes of time and the development of public sentiment.

It is difficult to see how the Supreme Court could have ruled other than it did. The question before it was one which it could consider only in the abstractions of justice and the Constitution. But, unfortunately, we in the South are faced by a condition, not a theory.

How we can reconcile the abstraction of equality of citizenship with the practical necessities of good government is not so easily to be determined. It is a matter in which time and education and the development of tolerance on the one hand and of civic responsibility on the other are required.

In the meantime, all of us, white and colored, will forward the cause of peace and justice by restraining our tempers and our tongues. The situation cannot be resolved by blind stubbornness, arrogance or inflammatory utterance and action.

South's Devices Run Thin

Times-New York, N.Y.

Congress Members Ponder Decision on Negroes and Its Bearing on 1944

4-5-44

By ARTHUR KROCK

Special to THE NEW YORK TIMES.

WASHINGTON, April 4—After their fiery outbursts yesterday against the 8-to-1 Supreme Court decision that overrode the Texas device by which Negroes are excluded as members of the Democratic party, Democratic members of Congress from the Deep South took counsel, and the impression seemed to grow among them that new legal strategies will be difficult to find.

Justice Stanley Reed ruled, in substance for the Court that, whenever the purpose and attainment of an exclusion device is clearly violative of the Federal Constitution and the power to render it effective originates in State law, the instrument is illegal. Since that is and always has been true of the real voting barriers against Negroes in certain Southern States (the poll tax is not one), it appears that these need only to be brought before the Supreme Court to be invalidated.

But, though the decision settles an ancient legal dispute so long as the Supreme Court stands by it, the social and economic problems in the South out of which the strategems grew remain to plague the people of those States where unlimited voting by Negroes in Democratic primaries can amount to control of the choices of State officials and members of Congress.

Mississippi an Example

In Mississippi this could bring about the election of Negroes, and those aware of conditions in the State view such a prospect with alarm for the consequences. Divisions among the white voters of several other States could have a similar result. Southern members of Congress today were concerned over this possible eventual effect for more far-sighted and patriotic reasons than are generally attributed to them in the North and East. They spoke of it as "eventual" because there is hardly time for the ruling to have general application this year.

But the decision accentuates a political problem for the Democratic national candidates in the forthcoming campaign. Already Administration policies with respect to the Negro population have made the South anxious, evoked a new crop of Southern politicians to preach the white supremacy doctrine, and stimulated Democratic disaffection from the President and his régime. The Republicans of course, will applaud the decision; their party record and their effort to regain the Negro vote in the East and Midwest make any other course unthinkable. This renders illogical the support of their national ticket by the disaffected Southern Democrats on that issue. But by staying away from the November polls these Southern voters would permit the Republicans to carry several border States and some situated between these and the Deep South, and win the election. Kentucky and Missouri are examples of the first group, Tennessee and North Carolina of the second. 4-5-44

Georgia Defiance Recalled

Such were the reflections and private expressions today of Southern Democrats who were discussing the possible effects of the Supreme Court decision and measures by which it might be circumvented. One method would be to follow the example of Georgia in the time of Chief Justice John Marshall, which declined to enforce a ruling by the court and was backed by President Andrew Jackson. But few would expect President Roosevelt's Administration to take the position of his predecessor. The other method would be to hit upon some new exclusion device and hope the Supreme Court would find it technically legal and not concern itself with the intended effect.

An ingenious suggestion along that line was made today, but the action of the court yesterday in tracing the law back to purpose and effect does not seem to offer any hope that it would be validated. The suggestion was that any party in any State would be on sound legal ground if it based exclusion from primaries on geographical origins instead of race or color, since nothing in the Constitution specifically bars a geographical requirement.

For example, the Democratic State Convention of Texas would admit to its party primaries "all persons whose original American continental ancestors came from any part of the world except that section of Africa which lies between the latitudes of 30 North and 25 South."

This may give a rough idea of the narrowness of the legal corner into which Justice Reed's text has driven the Deep South Democrats.

Supreme Court Kayoes Florida Peonage Law

Daily World-Atlanta, Ga.

Times-New York, N.Y.

WASHINGTON — (ANP) — A Florida law, making it a criminal offense for a person to obtain money by a fraudulent promise to perform labor was declared unconstitutional by the U. S. Supreme Court last week. 4-18-44

The high court decision was delivered by Justice Jackson and was supported 7 to 2, the court declaring that the Florida law violated the 13th amendment (prohibition against involuntary servitude), as wel las the federal anti-peonage statute. The dissenters were Chief Justice Stone and Justice Reed.

Emanuel Pollack, an illiterate Negro of Brevard County, Fla., as the court described him, had pleaded guilty to a charge of obtaining $5 from J. V. d'Albora, on the promise that he would work it out. He failed to keep his promise. D'Albora took him to court where he was fined $20 for each dollar of the five. Pollock could not pay the fine and so was sentenced to serve in jail at the rate of less than nine cents a day until the debt was discharged. 4-18-44

In deciding the case, the court held that the purpose of the 13th amendment and the anti-peonage statute was "not merely to end slavery but to maintain a system of completely and voluntary labor." The ruling referred to other instances where similar appeals had been overruled, but continued to recognize the state's right to punish fraud. 4-18-44

"Deceit is not put beyond the power of the state because the cheat is a laborer nor because the device for swingling is an agreement to labor," declared Justice Jackson. "But when the state undertakes to deal with this specialized form of fraud, it must respect the constitutional and statutory command that it may not make failure to labor in discharge of a debt any part of a crime. It may not directly or indirectly command involuntary servitude, even if it was voluntarily contracted for."

HIGH COURT RULES NEGROES CAN VOTE IN TEXAS PRIMARY

Decision, 8 to 1, Holds Denial of Right Because of Race Violates the 15th Amendment

4-4-44

STAND SINCE 1935 UPSET

Roberts, in Dissent to Reed, Chides Colleagues for 'Intolerance' in the Reversal

By LEWIS WOOD

Special to THE NEW YORK TIMES.

WASHINGTON, April 3—Negroes cannot legally be barred from voting in the Texas Democratic primaries, the Supreme Court ruled by eight to one today in a decision of far-reaching significance which upset a nine-year-old ruling and brought a lone but sharp dissent.

Southern members of Congress feared that the decision, while specifically applicable to Texas, could be extended to cover discriminations against Negroes in other States where the Democratic primary is ordinarily tantamount to election.

Senator James O. Eastland of Mississippi declared that the ruling revealed "an alarming tendency to destroy State sovereignty" and amounted to Supreme Court usurpation of Congressional functions.

The majority opinion was written by Justice Stanley F. Reed, who was born in Mason County, Kentucky, and the dissent by Justice Owen J. Roberts, a Philadelphian, the author of the 1935 finding in the case of Grovey V. Townsend, which was overruled.

Roberts Sees "Intolerance"

Justice Roberts criticized his colleagues for reversing former opinions, showing "an intolerance" to views of the former court and assuming "a knowledge and wisdom denied to our predecessors."

Upsetting the previous opinion, he said, "tends to bring ajudication of this tribunal into the same class as a restricted railroad ticket, good for this day and train only." 4-4-44

In the majority opinion, Justice Harris County, asking for a declaration judgment upholding the Negroes to vote in the First argued last No-Reed said:

"It may now be taken as a possissue was reopened in permit the State oftulate that the right to vote in sent its views. such a primary for the nomination of candidates without discrimina-

"Right Secured by Constitution"

The present case was brought to and color. January to permit the court by Lonnie E. Smith, a Negro. Seeking to vote in the 1940 Texas primary, he presented a poll-tax receipt but the right to vote was denied him because of his race vember, the issue

DIVISION OF BEHAVIORAL SCIENCE RESEARCH REEL 86

UPHOLD NEGRO RIGHT TO TEXAS PRIMARY VOTE

Court Reverses Its Previous Ban.

BY WILLARD EDWARDS.
[Chicago Tribune Press Service.]

Washington, D. C., April 3.—In a surprise reversal of a stand taken in 1935, the Supreme court, in an 8 to 1 opinion, today ruled that Negroes are entitled to vote in the Democratic primaries in Texas despite state laws to the contrary.

Widespread political repercussions in the south, where success in a primary is usually tantamount to election, are expected as a result of the decision which found Justice Roberts dissenting.

Denouncing his colleagues for the frequent changes they have made in the law as interpreted by the court in the past, Justice Roberts said the court had become "the breeder of fresh doubt and confusion in the public mind as to the stability of our institutions."

Reed Delivers Majority Opinion.

The majority, with Justice Reed delivering the opinion, said it was convinced of "former error" in the constitutional principles outlined by the court in a similar election case nine years ago. Chief Justice Stone and Roberts are the only two jurists remaining of the court that ruled in the previous case.

Typical of the attitude which southern congressmen may take in regard to the decision was the statement of Rep. Rankin [D., Miss.] that "congress remains the last hope for constitutional government as we know it."

That the opinion was largely the work of Justice Frankfurter was evidenced in the fact that Frankfurter, known as the "chief of staff of the White House palace guard," went out of his way to add this significant observation at the end of the decision: "Mr. Justice Frankfurter concurs in the result."

Refused Ballot in 1940.

The petitioner in the case was Lonnie E. Smith, a resident of Harris county, Texas, who sued for $5,000 damages after he was refused a ballot in the primary election of July 27, 1940, for the nomination of Democratic candidates for congress, governor, and other state officers.

The District court and Circuit Court of Appeals dismissed the claim, basing their decisions on the law as interpreted by the Supreme court in the Grovey vs. Townsend case in 1935.

Texas, in 1923, adopted a statute which declared that no Negro should be eligible to participate in a Democratic primary election in that state. When that statute was condemned by the Supreme court, the legislature then enacted a law saying that every political party might prescribe the qualifications of its own members and the state executive committee of the Democratic party then adopted a resolution that white Democrats, and no others, should be allowed to participate in the party's primaries.

1935 Opinion Unanimous.

A test of this procedure was instituted by a Negro citizen and the Supreme court decided unanimously in 1935 that to deny a vote in a primary was a mere refusal of party membership and not a violation of the 14th or 15th amendments.

Overruling this decision, the majority today declared:

"The United States is a constitutional democracy. Its organic law grants to all citizens a right to participate in the choice of elected officials without restriction by any state because of race. This grant to the people of the opportunity for choice is not to be nullified by a state thru casting its electoral process in a form which permits a private organization to practice racial discrimination in the election. Constitutional rights would be of little value if they could be thus indirectly denied.

State Held Party to Action.

"The privilege of membership in a party may be, as this court said in Grovey vs. Townsend, no concern of a state. But when, as here, that privilege is also the essential qualification for voting in a primary to select nominees for a general election, the state makes the action of the party the action of the state.

"In reaching this conclusion we are not unmindful of the desirability of continuity of decision in constitutional questions. However when convinced of former error, this court has never felt constrained to follow precedent. In constitutional questions, where correction depends upon amendments and not upon legislative action this court thruout its history has freely exercised its power to reëxamine the basis of its constitutional decisions.

Apply 15th Amendment.

"This has long been accepted practice and this practice has continued to this day. Here we are applying, contrary to the recent decision in Grovey vs. Townsend, the well established principle of the 15th amendment, forbidding the abridgement by a state of a citizens right to vote.

"Grovey vs. Townsend is overruled."

In his lone dissenting opinion, Roberts declared with cutting sarcasm that the reversal "tends to bring adjudications of this tribunal into the same class as a restricted railroad ticket, good for this day and train only."

"I have no assurance," he commented, "in view of current decisions, that the opinion announced today may not shortly be repudiated and overruled by justices who deem they have new light on the subject. In the present term the court has overruled three cases.

Nams Held Only Difference.

"In the present case, the court below relied, as it was bound to, upon our previous decision. As that court points out, the statutes of Texas have not been altered since Grovey vs. Townsend was decided. The same resolution is involved as was drawn in question in Grovey vs. Townsend. Not a fact differentiates that case from this except the names of the parties.

"It is regrettable that in an era marked by doubt and confusion, an era whose greatest need is steadfastness of thought and purpose, this court, which has been looked to as exhibiting consistency in adjudication and a steadiness which would hold the balance even in the face of temporary ebbs and flows of opinion, should not itself become the breeder of fresh doubt and confusion in the public mind as to the stability of our institutions."

tion by the State, like the right to vote in a general election, is a right secured by the Constitution.

"By the terms of the Fifteenth Amendment that right may not be abridged by a State on account of race. Under our Constitution the great privilege of choosing his rulers may not be denied a man by the State because of his color.

"The United States is a constitutional democracy. Its organic law grants to all citizens a right to participate in the choice of elected officials without restriction by any State because of race.

"This grant to the people of the opportunity for choice is not to be nullified by a State through casting its electoral process in a form which permits a private organization to practice racial discrimination in the election. Constitutional rights would be of little value if they could thus be indirectly denied."

State's View Considered

Discussing a resolution of the Texas Democratic State Convention saying that "all white citizens" are qualified to vote in the primaries, Justice Reed said that Texas had the right to conduct its elections as it wished so long as it did not run afoul of the Constitution or the Federal powers.

He cited the Sttae's view that the Democratic party was "a voluntary organization with members banded togethe for the purpose of selecting individuals of the group representing the common political belief as candidates in the general election."

Six years afte that decision however, the court ruled in May 1941, in the so-called "Classic" case" that Congress had the right to regulate primary as well as general elections. This 6-to-3 decision, written by Chief Justice Harlan F. Stone, related particularly to Louisiana but covered all primaries.

As a result, the case decided today was brought to the court to clear up "a claimed inconsistency" between the Classic and Lonnie Smith cases. Justice Reed stated the issue as follows:

"We are brought to an examination of the qualifications for Democratic primary electors in Texas to determine whether state action or private action has excluded Negroes from participation."

Party as "a State Agency"

All Texas primaries are conducted by authority, he state party [illegible]

termines the participants in a primary election."

"The party takes its character as a State agency from the duties imposed upon it by State statutes; the duties do not become matters of private law because they are performed by a political party," he held. "The plan of the Texas primary follows substantially that of Louisiana.

"If the State requires a certain electoral procedure, prescribes a general election ballot made up of party nominees so chosen and limits the choice of the electorate in general elections for State officers, practically speaking, to those whose names appear on such a ballot, it endorses, adopts and enforces the discrimination against Negroes, practiced by a party entrusted by Texas law with the determination of the qualifications of participants in the primary."

He held that this violated the Fifteenth Amendment, which prohibits a State from abridging the right to vote because of race, color or previous condition of servitude.

As to "Continuity in Decision"

In conclusion Justice Reed said that the majority were not "unmindful of the desirability of continuity of decision in constitutional questions," but that the court throughout its history had felt free to "re-examine" these issues and when convinced of error had never felt obliged to follow precedent.

Justice Roberts, in his dissent, said that in another case of this term, he had expressed his views "with respect to the present policy of the court freely to disregard and to overrule considered decisions and the rules of law announced in them."

"The tendency, it seems to me, indicates an intolerance for what those who have composed this court in the past have conscientiously and deliberately concluded, and involves an assumption that knowledge and wisdom reside in us which was denied to our predecessors," he went on.

"It is regretful that in an era marked by doubt and confusion, an era whose greatest need is steadfastness of thought and purpose, this court, which has been looked to as exhibiting consistency in adjudication, and a steadfastness which would hold the balance even in the face of temporary ebbs and flows of opinion, should now itself become the breeder of fresh doubt and confusion in the public mind as to the stability of our institutions."

Among Southern members of Congress commenting on the decision, Senator Walter George of Georgia said that party primaries should not be subject to court control beyond punishment of fraud, and Senator Burnet Maybank of South Carolina declared that his state would do what it could to [illegible] our white primaries."

Representative Nat Patton of Texas said that Texans would find some way to work out a Democratic primary for white folks."

Biddl Called Upon to Act

The National Association for the Advancement of Colored People, through its counsel, Thurgood Marshall, sent a letter to Attorney General Francis Biddle saying:

"We are sure that the Justice Department will now recognize that criminal jurisdiction over interference with the right to vote extends to primary elections.

"The decision in this case, along with the decision un United States v. Classic, clearly establishes the illegality of the practice, in most of the States of the deep South, of refusing to permit qualified Negro electors to participate in party primary elections.

Immediately after the 1942 primary the NAACP sent to the department a large number of affidavits from Negro citizens in Texas, Arkansas and South Carolina concerning the refusal to permit them to vote in primary elections. All of these complaints have been investigated by the FBI, but no further action has been taken.

"Now that there can be no doubt that such exclusion is a Federal crime, we urge you to issue definite instructions to all United States Attorneys, pointing out to them the effect of these decisions and further instructing them to take definite action in each instance of the refusal to permit qualified Negro electors to vote in primary elections in States coming within the purview of the two decisions."

DIVISION OF BEHAVIORAL SCIENCE RESEARCH REEL 86

New York Daily Worker

Supreme Court Outlaws Unions' Anti-Negro Bias

N.Y., N.Y. 12-19-44

By Federated Press

WASHINGTON, Dec. 18.—In twin opinions coupley by a sharply concurring one by Justice Frank Murphy, the U. S. Supreme Court today said that railroad unions must give full representation to Negro members of their respective crafts while operating under the Federal Railway Labor Act.

The principal case involved Bester W. Steele, a Negro fireman on the Louisville & Nashville Railroad in Alabama.

Steele and other Negroes are barred from membership in the Brotherhood of Locomotive Firemen and Enginemen by constitutional provision, although the union is recognized as the bargaining representative of all the employes under a contract with the railroad.

As a result of a series of actions by the Brotherhood and the railroad, Steele was replaced by a white fireman with less seniority and no more competence.

The Supreme Court of Alabama found that Steele had no cause for action and the case came to Washington on appeal.

Chief Justice Harlan F. Stone, writing the court's opinion, said:

"We think that Congress, in enacting the Railway Labor Act and authorizing a labor union, chosen by a majority of a craft, to represent the craft, did not intend to confer plenary power upon the union to sacrifice, for the benefit of its members, rights of the minority of the craft, without imposing on it any duty to protect th eminority."

He found that the union chosen was picked to represent all of the craft's members "regardless of their union affiliation or want of them."

Stone's opinion also said that wherever necessary "the union is required to consider requests of nonunion members of the craft and expressions of their views with respect to collective bargaining with the employer, and to give them notice of an opportunity for hearing upon its proposed action."

The opinion reversed the action of the Alabama Court, and remanded the case for further proceedings in line with the Supreme Court's opinion.

MURPHY'S OPINION

Justice Murphy, concurring, said

"The economic discrimination against Negro practices by the Brotherhood and the railroad under color of Congressional authority raises a grave constitutional issue that should be squarely faced.

"The utter disregard for the dignity and the well-being of colored citizens shown by this record is so pronounced as to demand the invocation of constitutional condemnation. To decide the case and to analyze the statute solely upon the basis of legal niceties, while remaining mute and placid as to the obvious and oppressive deprivation of constitutional guarantees, is to make judicial function less than it should be."

Murphy wound up his opinion saying "the constitution voices its disapproval whenever economic discrimination is applied under authority of law against any race, creed or color. A sound democracy cannot allow such discrimination to go unchallanged. Racism is far too virulent today to permit the slightest refusal, in the light of a constitution that abhors it, to expose an dcondemn it wherever it appears in the course of statutory interpretation."

A similar case with Tom Tunstall, Negro fireman of Norfolk, Va., as petitioner, against the Brotherhood of Locomotive Firemen and Enginemen, was also sent back to the lower court. Tunstall is employed by the Norfolk & Southern Railroad.

Freedom For Negro Firemen

World—Memphis, Tenn. 12-22-44

The United States Supreme Court struck another blow for Negro freedom this week when in a unanimous decision it moved to void the long established custom among some labor organizations in acting as the sole bargaining agents for Negro workmen without at the same time representing their interests; and that railroads are under no obligations to accept the benefits of such a spurious contract which the bargaining representative is prohibited from making.

In the doubled-barreled decision, the court ruled in favor of Bester Williams Steele, for 35 years a fireman on the Louisville and Nashville railroad, who protested through his attorney, Charles Houston, that he and other Negro firemen were discriminated against by an agreement between the Brotherhood of Locomotive Firemen and Enginemen 21 southeastern railroads. In a second opinion the High Court held that as a Negro locomotive fireman, Tom Tungstall, who charged in his complaint that he was pushed out of his job by a white man, was entitled to protection under the ruling of the Railway Labor Act.

The decision is momentous, striking deep into the long established "southern customs." It constituted the basis of the bold and belligerent attitude of these same railroads in refusing to abide by the Directive of the President's Committee on Fair Employment Practice to cease their policy of discrimination. Chairman Malcolm Ross said at that time: "The Supreme Court decision, in upholding the rights of individual employees to form associations for their mutual protection, made no distinctions of race and supposed that the right to organize and bargain collectively extends to all employees."

At about the same time, the Boilermakers Union of California, then under FEPC's fire, was taken to task by the National Labor Relations Board when it said: should the National Labor Relations Board when it said: "should jurisdiction would include many non-white workers who are barred from full membership in the Union. We entertain grave doubts whether a Union which discriminatorily denies membership to employees on the basis of race may nevertheless bargain as the exclusive representative in an appropriate unit composed in part of members of the excluded race."

12-22-44

Following hearings into alleged discrimination by railroads and railway unions, the FEPC issued an order ruling that the now discredited Southeastern Agreement between ten southern lines and the Brotherhood of Locomotive Firemen and Enginemen violates Executive Order 9346 and must be set aside. Our readers do not need to be reminded that the response of these railroads was brief and to the point: "To abide by such an order, "declared the railroads, "would be to disturb southern customs and would have disastrous results."

The Southeastern Agreement, in effect, limited Negro firemen to a percent of the total, by decreeing that only "promotable" men may be hired as firemen and by classifying all Negroes as "non-promotables". The agreement had for its main purpose the speedy reduction of Negro firemen, since the advent of Diesel engines reduced the arduous labor involved in a fireman's work.

The opinion of Justice Murphy's seperate concurring opinion points out that "nothing can destroy the fact that the accident of birth has been used as the basis to abuse individual rights by an organization purporting to act in conformity with its congressional mandate. "Racism," he concludes, "is too virulent today to permit the slightest refusal, in the light of a constitution that abhors it, to expose and condemn it wherever it appears in the course of a statutory interpretation."

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mother back home." [illegible] explained to the message center sergeant as he opened one of the pouches.

In Crump's camp, Sheriff Olivier Perry took exceptions to the labor leader's remark that Crump "out-Hitlers Hitler," saying that had he known the nature of the speeches, "I would have pulled them all out of the pulpit in Preacher Long's Church.

"Freedom of speech doesn't give anyone the license to lie and incite riots, and that is what they were doing," the Crump sheriff charged. He threatened to be on hand when the Tenant Farmers, headed by Mitchell, a white man, brings his mixed crowd here for a scheduled meeting.

trip to Virginia, but it didn't help him get there.]

How to Get an Anti-American Emergency, Md.

By HOD LEWIS

A motorcycle rider stopped near the cattle guard. He wore a white band around his helmet and carried dispatch pouches over his shoulder. A desert traffic guide, noticing his band, gave him directions to division headquarters.

"Got a message from the fort. Had orders to get it out here fast. Something to do with a soldier's

[EDITOR'S NOTE: This procedure works for some soldiers in some areas. Last week, the AFRO told how a soldier in Louisiana spent five days in the station before getting home to his mother's funeral. The Red Cross provided the money for his

dolph and his group.

"I feel safe," he added, "in saying that all white and colored who listened to A. Philip Randolph and other speakers on March 31, left there with love, respect and good will for white and colored in Memphis, Tenn., America and the world."

Sheriff Threatens

Hancock Journal, Ind. Guide

The Sobering Process Is Under Way

Norfolk, Va. 12-29-44

THE RECENT Supreme Court decision involving the semi-sacred primary of the south did not cause the political excitement one would have ordinarily expected. The region of Bilbo, Rankin and "Cotton Ed" was rather moderate in its reaction to a decision that may conceivably have revolutionary implications. After all, the South may not be as hopeless as we are at times inclined to fear. On the whole the sentiment engendered by the decision was rather sober.

DR. HANCOCK

Here and there the rebel yell could be heard and the flaunting of the red flag of "white supremacy" was here and there in evidence, but on the whole the South received the decision soberly and in this soberness there is hope in more or less abundance.

Fortunately the South is not as easily stampeded as a generation ago; and the Negro-phobe politician has his political fortunes shrouded in an uncertainty that makes professional Negro baiting less and less lucrative. From time to time the afflicted South gets some adverse advertising by its Negro-phobes of the "Bilbo-Rankin-Cotton Ed" type; but hope resides in the fact that the South is struggling hard to redeem itself in the eyes of the world and these struggling southern redeemers deserve the respect of the civilized men everywhere.

Theirs is a hard assignment. The south threw few or no tantrums as the decision was handed down. there was nothing resembling a pandemonium. While a few southern newspapers had "the morning after" expression on their journalistic faces, the more influential segment of the press accepted the challenge that the decision was designed to be, and that is, a challenge to fairness and justice for the Negro citizens of the South.

SOBERING ON RACE PROBLEM

It is hard to escape the conclusion that the South is sobering in its consideration of the race problem. "Red shirtism" of the Wade Hampton era has passed forever and the current generation sees with greater and greater clarity that the price of holding the Negro down is more than the more intelligent white South is willing to pay.

The imaginary dilemma wherein the South must choose between white supremacy and Negro subjugation is fast becoming a dead letter. It is really a choice between democracy and tyranny. Constitutions cannot be spurned in one breath and blessed in the next if democracy and Christianity are to be more than sounding brass or tinkling cymbals, or so many dry bones in the valley of death. Constitutions cannot be circumvented in the case of Negroes and be adored in the case of whites. When respect for the constitution is flaunted in one instance it becomes of less effect in every instance.

The younger generations who see the constitution spurned and circumvented will in time lose respect for it. The corruption of the southern white youth that goes with subjugating the Negro will bring ruin in its wake sooner or later. The white man who teaches by precept or example the white youth of the South to flaunt and circumvent the constitution of the United States is sowing to the wind and will in due times reap the whirlwind.

SOUTH MUST SAVE ITSELF

When white supremacy must be preserved by degrading our constitution and by trampling under foot the teachings of the Son of God, it is high time that somebody is taking stock of the certain destruction that most surely awaits us. While the South is sobering with regard to the race question it will sober further if it considers the irrefutable fact that the sweat and tears and blood and treasure we are today spending are but so much tribute to the satanic god of race prejudice. The South will be further sobered to realize the fact that the South must save the Negro if it itself would be saved.

These world wars are calculated to sober not only the South but the nation and the world. Whether we realize it or not a great calamity has overtaken mankind. The night of death in Egypt was not more vexing than the plague of blood that is now upon the hapless sons of men. The sobering process is under way.

—GORDON B. HANCOCK

HIGH COURT BACKS NEGRO RAIL MEN

Pittsburgh Courier—New York Times

Locomotive Firemen Win in Job Cases Against Southern Railroads and Union

12-19-44

Special to THE NEW YORK TIMES.

WASHINGTON, Dec. 19—In two unanimous decisions, the Supreme Court today reversed lower court rulings and held that Negro employes on American railroads are protected by the Railway Labor Act against management-labor pacts seeking to drive them out of their jobs or deny them promotions.

Both cases had bearing on a long-standing complaint of Negro locomotive firemen who have said that they are being "swept off" Southern railroads as the result of a 1941 collective bargaining agreement between the Brotherhood of Locomotive Firemen and Enginemen and twenty-one Southeastern railroads.

Chief Justice Stone, who read the opinions in both cases, declared the brotherhood, which has refused membership to Negroes, must represent all employes in its negotiations with the railroads because the Railway Labor Act makes it the exclusive bargaining agent of an entire "craft" of employes. Negroes, it was said, constituted a minority in that "craft."

12-19-44

Insists All Be Represented

"Unless the labor union representing a craft owes some duty to represent non-union members of the craft, at least to the extent of not discriminating against them as such in the contracts which it makes as their representatives," he said, "the minority would be left with no means of protecting their interests or, indeed, their right to earn a livelihood by pursuing the occupation in which they are employed."

In one case, Bester William Steele brought suit against his employer, the Louisville & Nashville Railroad Company, and the locomotive brotherhood. He charged that as a result of the 1941 labor agreement with the railroads, he had been displaced by a white man and demoted to a less desirable job. In the other case, Tom Tunstall, employed by the Norfolk & Southern Railway, placed a similar complaint against the brotherhood.

Under the agreement on which the complainants based their fight, only white firemen were to be promoted by the twenty-one railroads to serve as engineers, and only "promotable" men were to be employed as firemen or assigned to new runs or vacancies in established runs.

Lower courts hearing these cases held either that the Railway Labor Act put a "mandatory duty" upon the railroads to bargain with the brotherhood, or that Federal courts had no jurisdiction over such cases.

12-19-44

The Supreme Court held today that the Federal courts did have jurisdiction inasmuch as the Railway Labor Act had been found to be violated. In its opinion, the duties of the "statutory representative of a craft" were compared to those which the Constitution imposed upon a Legislature "to give equal protection to the interests of those for whom it legislates."

The Supreme Court agreed today to review a Railway Mail Association protest against a New York finding that it is a labor organization which may not deny membership because of race, creed or color.

12-19-44

The association appealed from a decision by the New York Supreme Court. It said the basis of its complaint was an "attempt" by the New York State Industrial Commissioner to "coerce" it to admit members contrary to provisions of the association's constitution.

The group's constitution limits membership to railway clerks who are Caucasians or native Indians. The State's Civil Rights Law prohibits labor organizations from denying membership because of race, creed or color.

The association contended it was not a labor organization but was a fraternal beneficiary corporation having its main office in Portsmouth, N. H. Since 1913 it has conducted the business of a fraternal benefit insurance corporation in New York State.

High Court Refuses to Hear Texas's Plea

Afro American—Baltimore, Md.

5-13-44

Pleas of Texas Attorney General and 2 Election Judges for Rehearing Denied

WASHINGTON

The Supreme Court on Monday dismissed without comment two pleas for a rehearing of its recent decision that colored citizens have the right to vote in Texas Democratic primary elections.

The pleas for rehearing of the case were filed by Grover Sellers, attorney general of Texas, and two election judges who were involved in the case. The State and the judges filed separate pleas. The court was silent in its denial of the pleas.

The point raised by the election judges in their plea was that the 8 to 1 decision voided a unanimous Supreme Court ruling handed down nine years ago, sustaining the exclusion of colored voters from Texas Democratic primaries.

Must Follow State Procedure

They stated that Texas statutes have not been changed in any great respect since the court gave its earlier decision.

Under the latest ruling, the Texas Democratic party must follow State legislative procedure in its selection of party nominees in the primary elections, the court ruling that the party is a State agency.

5-13-44

Opposing this interpretation of the law by the court, Sellers in his petition complained that:

"The court makes much of the fact that the State regulates the manner in which primaries are conducted." This he admitted, but added: "But it is equally true that under the Texas constitution, primary elections are conducted by the party at party expense."

Third NAACP Victory

The Supreme Court's recent ruling in the Texas primary case was the third straight victory for the NAACP in its efforts to get the ballot for 571,000 eligible colored voters in Texas.

The other two cases were filed in 1924 and 1929 by Dr. L. A. Nixon, El Paso physician. At that time Texas law stated that "no

charged that the Democratic party in Texas has been denied colored voters the right to vote in party primaries in that State, are equivalent to election. A party rule restricting membership to "white citizens."

Just how sweeping the decision is in its effects of other States has not been determined, as far as the public is concerned, but

Houston Dentist Plaintiff

Dr. Lonnie E. Smith, Houston dentist, sued S. E. Alwright, election judge, and James R. Liuzza, associate election judge, of the 48th Precinct of Harris County, Texas, for $5,000 damages for refusing him the ballot in the primary election held July 27, 1940, solely because of his race or color.

5-13-44

The Supreme Court ruled in favor of the dentist, Justice Owen J. Roberts dissenting.

THE DECISION FINAL

Tribune — Savannah, Ga.
5-3-44

"The decision is final as the law in Texas is concerned." This is the assertion of the Attorney-General of Texas after hearing about the refusal of the Supreme Court to a rehearing of the Texas primary decision. It is an able man who acknowledge when he is whipped. This Attorney-General Grover Sellers of Texas has done. April third, the Supreme Court of the United States decided against Texas in the attempt to bar Negroes from voting in that state. A rehearing was requested with the above result as announced on Monday last. The court made it clear that the decision not only covers Texas but other states that debar Negro voters. Those who are appealing to respect constitutional laws should be inclined to do so and fully obey the decision of the courts.

"COERCED LABOR IS PEONAGE"

Tribune — Savannah, Ga.
5-18-44

Two years ago a colored man in Wilkinson County became indebted to a white man for a sum less than twenty dollars. Because of this debt he was convicted in the Superior Court of that county and fined thirty-five dollars and cost or a eight months term on the chain gang. Through the influence of the Commission on Interracial Cooperation, the case was appealed, and carried to the Supreme Court. This case was reversed. It was Justice Byrnes in presenting the verdict, who said, that, "such coerced labor is peonage." The Wilkerson county jurist should be conscience stricken upon receiving such a rebuff from the highest court in the land.

5-18-44

Decision Frees Illiterate Negro Held on Work Fraud Charge

Tribune — Washington, D.C.

Last week, it was Texas that the U.S. Supreme Court slapped back in her tracks for depriving Negroes of their constitutional right in the lily-white primaries. This week, the Supreme Court walloped Florida in a 7-2 decision for persistently ena cting labor-fraud laws in violation of the anti-slavery amendment to the Constitution.

4-15-44

The Supreme Court on Monday voided a 60-day prison sentence imposed on Daniel Pollack, an illiterate Negro worker of Brevard County, Fla., who failed to work off a $5 debt. The majority opinion written by Justice Robert E. Jackson, held that the Florida law under which Pollock was sentenced was a violation of both the 13th Amendment and the Federal anti-peonage law.

Pollock pleaded guilty to a charge of obtaining $5 from J. V. d'Albora with a promise to work which he failed to carry out.

Fined $20 on $1

He was fined $20 for each dollar of the five, and in default of pay was sentenced to serve in jail at the rate of less than nine cents a day until the debt was discharged. 4-15-44

The court's opinion said the unquestionable aim of the 13th Amendment and the Anti-peonage Act "was not merely to end slavery but to maintain a system of completely free and voluntary labor."

The Justices further observed that several times previously the court had overruled laws similar to the Florida statute but had always established the State's right to punish fraud.

Hitting hard at similar peonage laws, the court sad that "where peonage has existed in the United States it has done so chiefly by virtue of laws like the statute in question." 4-15-44

"Congress," it said, "has put it beyond debate that no indebtedness warrants a suspension of the right to be free from compulsory service. This Congressional police means that no State can make the quitting of work any component of a crime or make criminal sanctions available for holding unwilling persons to labor." 4-15-44

Justice Stanley Reed, who delivered the Texas primary ruling last week, dissented along with Chief Justice Harlan Stone. They argued that no allegations or proof appear in the record that the Florida statute was used or applied to promote peonage or involuntary servitue of petitioner or to coerce his plea of guilty."

Supreme Court Upholds Lyons' Conviction

Journal + Guide
Norfolk, Va. 6-10-44

Justices Murphy, Black and Rutledge Dissent

WASHINGTON, D. C. — The United States Supreme Court in a majority opinion this week affirmed the conviction of W. D. Lyons sentenced to death following conviction upon charges of having murdered a white man, his wife and a four-year-old child on the night of December 31, near Fort Towson, Okla.

Lyons' case went before the high court from the Appeals Court of Oklahoma on a writ procured by Thurgood Marshall, special counsel for the NAACP, who defended Lyons in the lower court.

Counsel for the condemned man contended that he was convicted upon a confession extorted through torture inflicted by certain police officers. The tortorous methods resorted to by the officers were said to include placing a pan of human bones upon Lyons' knee, frightening him into making statements incriminating himself. 6-10-44

Knowing that a confession obtained in this manner would be useless in court, the officers, a short while later, procured a substantiating confession purportedly under normal circumstances.

"To say we are shocked by the majority decision of the United States Supreme Court affirming conviction of W. D. Lyons is an understatement," commented Walter White, NAACP executive secretary, immediately following announcement of the Supreme Court decision.

AUDS DISSENTERS

Continuing, Mr. White said, We applaud the vigorous dissent of Justices Murphy, Black and Rutledge. 6-10-44

"Judge William H. Hastie and Thurgood Marshall of the NAACP legal staff are immediately scrutinizing the majority opinion to determine the next step to take in the Lyons' behalf.

"The decision provides a loophole in federal protection against extorted confessions through which not only Negroes but members of other minorities such as labor, Jews and Catholics may suffer similar injustices.

"The NAACP is firmly convinced of Lyons' innocence and of the fundamental civil right issues involved in the case."

Dixie Still Seeking Methods To Bar Race from Primaries

Tribune — Washington, D.C.
5-13-44

Doors to any proposed judicial action aimed at barring Negroes participation in the so-called Southern "white" primaries were closed this week when the U. S. Supreme Court stood pat on its April 3 decision that Negroes have a constitutional right to vote in State primaries and refused to reconsider the ruling which brought down the rantings of Dixie Congressmen on its head.

Reconsideration had been requested by Atty. Gen. Grover Sellers of Texas and the two Houston election judges involved in the original case. In seeking permission to reargue the case, they contended the court erred in ruling that the Federal Constitution prevents the Democratic party from conducting anything about voter qualifications. 5-13-44

The Supreme Court based its April 3 ruling on the State's party primary system will be instituted on the ground that with Negroes excluded, it is said.

Test Comes on July 22

Texas will test the High Court ruling on July 22, when that State holds primaries for Congressional, State, and county offices. 6-13-44

Negro leaders in the South are alert to their opportunity and are active to take advantage of it. Negro newspapers, ministers, and school teachers are busy registering members of the race.

Must Follow Law

They also contended that party primary in Texas is required to follow procedure in selecting nominees and, therefore, is an agent of the State.

While the ruling specifically affected Texas, it also applies to all other States having similar primary laws and upset all previous court decisions on the issue.

Southern Congressmen have said that ways will be found to bar Negroes from primaries. There is no concerted action yet by the Southern States to evade the law, but South Carolina has led with enactment of a doctrine of nullification by stripping from its statutes at a recent special session of the legislature. A convention system will be instituted with Negroes excluded, it is said.

Decision Settles Rights Of Negroes To Vote In Primary

Informer — Houston, Texas
5-13-44

By CARTER WESLEY

HOUSTON.—Monday, May 8, the Supreme Court of the United States denied a petition for rehearing in the Smith vs. Allbright, Texas primary case, filed by the Democratic party of Texas and the State of Texas. Presumably, Attorney General Grover Sellers and Ex-Governor Dan Moody and Wright Morrow, for the Democratic party, presented all of the argument now in favor of the Democratic primary bar against Negroes. The denial of the petition thus settles the legal right of Negroes to participate in the Texas primary under the present laws of Texas.

Prior to the Supreme Court's decision in Smith vs. Allwright, Democrats justified their barring of Negroes on the ground that the Court authorized them to do so. Both they and most Negroes knew that they were barred because a few political leaders wanted them barred and used legal schemes to bar them from the primary. However, many Negroes believe that if the Supreme Court ever found that Negroes had the right to vote, some of these politicians, and the majority of white Democrats in Texas, would in good sportsmanship comply with the ruling of the Supreme Court. Some Democrats seemingly are inclined to bow to the Supreme Court's decision, but there are a number active in Democratic councils, who seem bent upon attempting to illegally take from American citizens the right to vote.

This is worse than Hitlersim because Hitler makes no pretense at being fair, or of being democratic. Here in Texas we not only pretend to be democratic, but we are fighting and using our substance to guard and enlarge the principles of democracy. It is also bad because it is obvious that either Negroes will vote efficiently in Texas or in the South, or Democracy will curl upon itself and die.

Negroes refuse to be unduly exorcized, but they will not hesitate to appeal to both the civil and the criminal laws to vindicate their right to vote. They understand that they now have a clear legal right to vote in Texas and no feints or other dodges will confuse their grasp of that fundamental principle. Legally the right is established and it only remains for courageous citizens to use the law and protect that right as they protect other rights.

5-13-44

U.S. Supreme Court Hands Down 2 Unanimous Decisions On Negro Employes Of Railroads

Age — New York, N.Y.
12-23-44

WASHINGTON, D. C. — In two unanimous decisions, the United States Supreme Court ruled Monday that Negro employes on American railroads are protected by the Railway Labor Act against management labor pacts seeking to drive them out of their jobs or deny them promotions.

The decisions had bearing on a long-standing complaint of Negro locomotive firemen who have charged that they are being "swept off" Southern railroads as the result of a 1941 collective bargaining agreement between the Brotherhood of Locomotive Firemen and Enginemen and 21 Southern railroads

Chief Justice Stone, who read the opinions in both cases, declared that the brotherhood which has refused membership to Negroes, must represent all employes in its negotiations with the railroads because the Railway Labor Act makes it the exclusive bargaining agent of an entire "craft" of employes. Negroes, it was said, constituted a minority in that "craft." 12-23-44

"Unless," said Chief Justice Stone, "the labor union representing a craft owes some duty to represent non-union members of the craft, at least to the extent of not discriminating against them as such in the contracts which it makes as their representatives, the minority would be left with no means of protecting their interests or, indeed, their right to earn a livelihood by pursuing the occupation in which they are employed."

Court Awards $13,500 For Apex Property

Journal and Guide
Norfolk, Va.

PHILADELPHIA, (ANP) — Mme. Sara Spencer Washington, president and owner of the Apex Hair Products company, was awarded $13,500 for damages sustained when the government took her building here. The award was made by a jury in the U. S. court for the eastern district of Pennsylvania under Judge Kirpatrick. 11-4-44

Represented in court by Atty. Raymond Pace Alexander, Mme. Washington's property is the only Negro property seized by the government here and attracted wide public attention. It was taken during March when it became necessary to either enlarge the Douglas hospital by purchasing or demolishing buildings on either side of it or go across the street and seize properties in close proximity to the hospital in order to accommodate colored soldiers in this area.

OFFERED $8,500

In its seizure, the government, through its appraisers, offered Mme. Washington $8,500 for the property. This was refused and litigation begun in the United States District Court to obtain a higher figure. 11-4-44

On the stand, Archie J. Morgan, vice president and general manager of the Apex company, traced the business of the company from its earliest period and told how the building seized by the government had been enlarged and improved by Mme. Washington at considerable cost. A prominent local real estate broker testified that the property was worth $16,000.

Primary Verdict Upheld

Court Refuses To Reconsider April 3 Decision

WASHINGTON, D. C.--The Supreme Court on Monday denied an appeal presented by the Attorney General and the election officials of Texas, to reconsider its 8-1 verdict on April 3 that Negroes have a right to vote in the state primary elections.

Grover Sellers, the Attorney General of Texas, and S. E. Allwright and James E. Buzzo, election judges, filed separate requests for a rehearing of the ruling made by the court in declaring the primary election plan of the state Democratic party unconstitutional. The court's unanimous decision in April upheld a lower court ruling that the exclusion of Negroes from the Democratic primaries is unconstitutional.

The petitioners argued that the statutes which charged party officials with the duty of conducting primary elections do not delegate sovereign power to the party, and that the party is not responsible for the acts of the legislature in so far as it does not prevent enactment of statutes which permit political parties to control party affairs.

In the historic decision, which threw several Southern states, at least temporarily, into a fury because it forbade Negro participation in civic affairs, Negroes, South Carolina ruled through a special session of the state legislature hundreds of laws to nullify the decision or render the all-white primary, ineffective. Some counties, such as Charleston, County, have said they will bar Negroes from the polls.

Statesmen in all walks of life pointed out that the clear intent of the Supreme Court ruling is that Negroes are rightfully entitled to the primary vote.

Journal & Guide Norfolk, Va. 1-15-44

14-1944 U. S. Supreme Court

Peonage Indictment Against Fla. Planter Reversed By High Court

Daily World - Atlanta, Ga. 1-12-44

No Allegation That Arrested Man Had Rendered Any Labor

WASHINGTON—(ANP)—The United States Supreme Court has reversed the federal court of the northern district of Florida in a peonage case, Att. Gen. Biddle announced last week.

The case involved one Charles A. Gaskin, owner of a turpentine plantation at Marianna, Fla., scene of one of the three lynchings in 1943, and of many more before that who was indicted some months ago on the charge of violating the federal peonage law. Gaskin was charged with "arresting" a Negro named George Johnson on the claim that Johnson was indebted to him and with the intent to cause Johnson to perform labor in satisfaction of the debt. 1-12-44

The indictment charged that Johnson was forcibly detained against his will and transported from one place to another within the state of Florida. There was no allegation that Johnson rendered any labor or service in consequence of the arrest. Because of this fact, the defendant entered a demurrer for dismissal of the indictment, which was granted. The United States attorney appealed.

Justice Roberts in rendering the opinion said that the district court had erred in holding that the statute imposes no penalty for an arrest with intent to compel the performance of labor or services unless the person arrested renders labor or service for a master following the arrest.

"We think this was an error," said the justice. "The section 269 of the criminal code (under which indictment was obtaind) makes arrest of a person with intent to place him in a state of peonage a separate and independent offense. It penalizes whoever holds, arrests, returns or causes to be held arrested or returned to a condition of peonage." 1-12-44

The case was argued in the October term of court but the decision has just been made public.

Negro Ballot Rights Argued By Tribunal

News-Birmingham-Ala.

1-12-44

WASHINGTON—(AP)—Litigation to determine whether the Supreme Court should overrule a previous decision and hold that Negroes in Texas have the constitutional right to vote in a congressional primary, was before the tribunal Wednesday for argument.

It was the second time this term that the question has been up for debate. During the first argument on Nov. 10 and 12 no one appeared to represent the Houston election judges alleged to have denied Lonnie E. Smith, a Negro, the right to vote in a 1940 primary.

Reargument was ordered by the tribunal after state officials requested an opportunity to be heard. They also filed a brief contending that the Democratic party "can regulate its policies and determine who shall constitute its membership, unless specifically prohibited by statutory law."

The brief added that Negroes had the right to "organize a political party in the state of Texas and exclude from said party all persons except Negroes." 1-12-44

Counsel for the Negro have urged the court to "reexamine" its 1935 opinion sustaining the exclusion of Negroes from Texas primaries.

They cited a 1941 Supreme Court opinion which they said held that in a state where choice at the primary was tantamount to election, the right to vote in the primary was derived from the Federal Constitution.

DEFENDS NEGRO BAN IN TEXAS PRIMARY

Times-New York, N.Y.

Assistant Attorney General Tells Supreme Court Separate Party Is Legal

1-13-44

WASHINGTON, Jan. 12 (AP)—An assertion that Texans had a constitutional right to organize "a white man's Democratic party" to the exclusion of Negroes was made today before the Supreme Court by George W. Barcus, Assitant Attorney General of the State.

Urging the tribunal to affirm its 1935 decision sustaining the exclusion of Negroes from a Texas Democratic primary, Mr. Barcus said the Negroes could organize their own party and exclude whites.

Thurgood Marshall, New York attorney, contended that such exclusion is unconstitutional. Mr. Marshall and William H. Hastie, Washington attorney, asked the court to set aside the 1935 decision because it was based on factual mistakes. They represented Lonnie E. Smith, Houston Negro, who was barred from voting in a 1940 primary to nominate candidates for Congress.

"We think," Mr. Barcus asserted, "that any group of folks can form a political organization of their own and limit the membership."

"You say, in effect," Justice Frankfurter asked, "that this would be a club?"

"That's all it is," Mr. Barcus replied. 1-13-44

Referring to a statement by Mr. Hastie that there are 571,000 Negroes of voting age in Texas, Mr. Barcus said that if they organized a party of their own they "could whip us anytime."

"We've never had anyone who received that many votes in a primary," he explained.

Mr. Barcus enlivened the hearing by saying that "the only reason we have a Republican party in Texas is so the members can get the plums when the party is in control at Washington."

"It's just like Democrats in Vermont and New Hampshire," he added.

"They don't have many there," commented Chief Justice Stone, a native of New Hampshire.

Mr. Marshall said that since 1859 all Democratic nominees, with two exceptions, had been victorious in Texas. He said one exception was Alfred E. Smith, nominated for President by the Democrats in 1928, and the other was "way back."

In Texas, Mr. Hastie interposed, "no white person who will take the pledge to support the Democratic nominee can be prevented from voting in a primary, but the Democratic party is free to prevent any Negro from voting."

Sharecropper Case To Highest Court

PM-New York, N.Y.

2-10-44

Special Correspondence

LITTLE ROCK, Ark., Feb. 10.—The case of Tee Davis, Negro sharecropper who was sentenced to 10 years in prison for firing a shotgun in defense of his two-room cabin home at Edmondson, an Arkansas cotton community, will be appealed to the U. S. Supreme Court.

Davis's conviction was upheld by the State Supreme Court last week in spite of a showing that Harold Weaver, town marshal of Edmondson, attempted to break into Davis's home without a warrant while searching for a cattle thief. Davis fired through the door, wounding Weaver in a finger, after which he surrendered to two deputy sheriffs.

Charged with assault with intent to kill, Davis told an all-white jury he knew Weaver only slightly and thought he was a thief attempting to break into the house.

COURT REAFFIRMS RULING ON PORTERS

Times-New York, N.Y.

Refuses to Reconsider Decision Against Negroes Choosing Own Bargaining Agent

1-11-44

WASHINGTON, Jan. 10 (AP)—The Supreme Court stood pat today on a decision which was criticized as denying a group of Negroes the right to choose their own collective bargaining representatives.

The tribunal's action applied to forty-five Negro station porters in St. Paul who, because of their race, were barred from membership in a railway brotherhood which at the same time claimed the right to represent them in labor negotiations.

The court refused to reconsider its decision of Dec. 6 sustaining a National Mediation Board ruling that the porters do not form a separate craft or class of employes and, under the Railway Labor Act, do not have the right to select another union to speak for them.

The United Transport Service Employes Union, contending it had been chosen by the porters as their bargaining agent, sought reconsideration of the opinion, asserting that it left Negroes in a "hopeless plight" in the interstate railway labor field.

United Transport contended that the porters had been shunted aside as a "voiceless minority" in a craft in which they were not recognized and had been forced to accept the Brotherhood of Railway and Steamship Clerks as their representative, although they could not belong to the union or have any voice in its conduct. 1-11-44

Furthermore, the union argued, the Mediation Board had in other cases recognized United as a craft organization representing red caps and had accepted it as their bargaining agent in dealings with twenty-one other railroad or station companies.

Without filing a written opinion, the court on Dec. 6 cited its previous ruling that Federal courts should not interfere with Mediation Board action in union jurisdictional disputes.

United Transport declared that such an interpretation of the law deprives the porters of "basic rights" and is unconstitutional because the Railway Labor Act gives employes the right to organize and bargain collectively through representatives of their own choosing.

In putting the porters under the jurisdiction of the Brotherhood, United contended, the Mediation Board never held an election or contacted any porter "whose vested property rights in his job by its (the board's) decision have been placed at the uncontrolled discretion of the Brotherhood, which will not recognize him as a member."

The board's designation of the Brotherhood as bargaining agent, United declared, "is involuntary economic servitude and is obnoxious to the Thirteenth Amendment as constituting limitations on individual rights which pertain to the status of slaves rather than to free men." 1-11-44

The Brotherhood based its claim to representation on a 1921 collective bargaining contract with the St. Paul Union Depot Company which it said covered the red caps.

U. S. COURT DENIES APPEAL OF SHERIFF

Ga Herald-Montgomery, Ala

Sentences Of Three, Charged With Slaying, To Stand

NEW ORLEANS, Jan. 14—(AP)—The U. S. Fifth Circut Court of Appeals, upholding jurisdiction, affirmed Friday conviction of Sheriff M. Claud Screws of Baker County, Ga., and two other officers convicted in the Middle Georgia District Court on charges of violating the civil liberties statutes in connection with the beating to death of a Negro prisoner. 1-15-44

The two-to-one decision was given by Judges Edwin R. Holmes and Curtiss L. Waller, with Judge Samuel H. Sibley dissenting on the ground that the case was liable to criminal prosecution under Georgia law and that the federal statutes did not apply.

Screws, Frank Edward Jones, a former Newton County policeman and Jim Bob Kelley, a special deputy, were accused of beating to death Robert Hall, Negro, alleged to have stolen an automobile tire, in the Baker County courthouse year. 1-15-44

Each of the defendants was sentenced by District Judge Bascom Deaver to three years imprisonment and fined $1,000.

Florida Peonage Law is Voided; Supreme Court Rules on $5 Debt

Times-New York, N.Y.

4-11-44

Special to THE NEW YORK TIMES.

WASHINGTON, April 10—The unconstitutional today a Florida "peonage" law enacted in 1919 under which a Negro laborer was sent to jail for sixty days for lack of $100 to pay a fine imposed by the State court as penalty for not working off $5 advanced to him by an employer.

The decision, from which two justices dissented, denounced the presumption of fraud under the law which led to the Negro's conviction. It called the law "peonage" contrary to the guarantees of lib-

Supreme Court knocked down as

erty granted in the Thirteenth Amendment of the Constitution, which prohibits involuntary servitude.

Justice Stanley F. Reed dissented and Chief Justice Harlan Fiske Stone concurred in the dissent. The opinion rejecting the statute was backed by seven justices. Justice Robert H. Jackson wrote the opinion.

The case reached the court as the result of the arrest in January, 1943, of Emanuel Pollock, who was charged with accepting, in the previous October, an advance of $5 from J. V. O'Allora, on a promise to do some work. 4-11-44

Mr. Pollock pleaded guilty, without advice from counsel, and was sentenced. The court noted that he was "without funds" and that he said he "did not understand the nature of the charge against him," except that he owed the money, which he acknowledged.

The opinion stated that the Florida law "is the latest of a lineage," all of which have been associated with peonage, and that "in the light of its history," there was no reason to believe that the law was generally used or especially useful merely to punish deceit." 4-11-44

It added the finding that "when the master can compel and the laborer cannot escape the obligation to go on, there is no power below to redress and no incentive above to relieve a harsh overlordship or unwholesome working conditions."

"It is true," the court stated, "that in each opinion dealing with statutes of this type this court has expressly recognized the right of the State to punish fraud, even in matters of this kind, by statutes which do not either in form or in operation lend themselves to sheltering the practice of peonage. Deceit is not put beyond the power of the State because the cheat is a laborer nor because the device for swindling is an agreement to labor.

Right of State Is Considered

"But when the State undertakes to deal with this specialized form of fraud it must respect the constitutional and statutory command that it may not make failure to labor in discharge of a debt any part of a crime. It may not directly or indirectly command involuntary servitude, even if it was voluntarily contracted for."

Justice Reed wrote, in the dissenting opinion, that this type of conviction under the Florida law "result not in peonage work for a debt but in punishment for crime, probably in the county workhouse," and that he thought that the conviction in the Florida State courts should be upheld." 4-11-44

"However much peonage may offend our susceptibilities," he argued, "and however great our distaste for a statue which is capable of use as a means of imposing peonage on the working man, the present statute is, in this court, no more immune than any other which a State may enact, from the salutary requirement that its constitutionality must be presumed, and that the burden rests on him who assails it, on constitutional grounds, to show that it is either unconstitutional on its face or that it has been or will be in fact so applied as to deny his constitutional rights."

PRIMARIES ARE NOT PRIVATE Times- New York, N.Y.

The Supreme Court's decision in the Texas primary case is being discussed in some quarters, by those who approve of it as well as by those who do not, as though the Court had just passed a new law. This is beside the question. The Court is not a legislative body. It is an agency, representing the whole nation, whose function it is to pass final judgment on certain categories of cases. The Court is composed of individuals who may and do change their minds. Its membership, and with it its legal philosophy, changes as judges die or retire and others take their places. But its decisions, whatever they are, are the living Constitution, and they cannot be defied or circumvented without a repudiation of the Constitution itself. 4-5-44

The present decision is remorselessly logical. Primary elections in the South, under what is practically a one-party system, determine which candidates shall be chosen for Federal offices. If a citizen cannot vote in the primaries his vote is lost. The primaries are regulated by the State. The State, under the Fifteenth Amendment, cannot deny or abridge the citizen's right to vote on account of "race" or "color." Eight of the nine Justices supported the decision which may be thus freely summarized: Under the supreme law of the land, against which no citizen and no State has at any time any right to go, the State of Texas, and by inference other States, may no longer discriminate against Negroes in the Democratic or other party primaries.

The time has passed when any considerable number of Americans believed that democracy could be secured by force. Justice in this land stands finally on its moral authority. The Supreme Court's writ will be respected by thoughtful and responsible citizens in all parts of the country. We are a little nearer to a more perfect democracy, in which there will be but one class of citizens, not two or more classes. This democracy is political. The Court cannot prescribe or condemn a social system. It can only confirm the glorious old principle, for which Americans of many races have died and are dying in combat with the foe, of equality before the law.

Negro Vote Court Ruling Spurs Move By Biddle

Post - Washington, D.C. 4-5-44

Starts Inquiry to Fix Department Status Under Texas Decision

By Mary Spargo

Attorney General Francis Biddle yesterday ordered a Justice Department inquiry into whether Monday's Supreme Court decision outlawing white primaries affects existing complaints of discrimination against Negroes in Southern primaries.

At the same time authoritative sources suggested that the Supreme Court decision appears to be so broad as to raise the question of whether the Justice Department can now act on charges of local election frauds and the like, over which the agency previously has considered it had no jurisdiction.

Biddle, a Justice Department spokesman, said, has asked Victor Rotnem, chief of the Civil Rights Section, and Tom Clark, assistant attorney general in charge of the Criminal Division, to prepare memoranda interpreting the scope of the Supreme Court's decision.

Texan to Investigate

The ruling by the high court referred specifically to the Democratic primary in Texas. Clark is a native Texan.

The decision, however, is not regarded as being limited to Texas. It was the consensus of the Justice Department staff meeting yesterday that the ruling was broad enough to cover any case of discrimination because of color in any State primary election.

Thus it would appear that even States like Tennessee, where some Negroes vote, would be affected if complaints were made that any Negroes were excluded because of race.

This interpretation appeared to be shared yesterday by Gov. Coke R. Stevenson of Texas, after a conference with Attorney General Grover Sellers. 4-5-44

Governor's Disclosure

The Governor disclosed, according to the Associated Press, that he would not call a special legislative session to repeal the primary laws because the court's decision is sufficiently broad to prohibit party exclusion ofg Negroes, even if all State statutes regulating party functions were repealed.

Any expedient which might be shown in court, the Governor said, to have the effect of drawing the color line "probably would not stand up."

The State executive committee will meet again before the May 23 party convention, and Committee Chairman George A. Butler predicted "we'll find a way out of this."

Meanwhile Southern Senators, seeking a way out of the court-created impasse, yesterday suggested that Southern States could abandon their primary system altogether and return to the convention method.

Might Drop Primary

Senator John H. Oerton (D., La.) brought up the possibility of abandoning the primary system and calling conventions from which Negroes could be excluded.

Senator Claude Pepper (D., Fla.), generally regarded as an Administration spokesman, was reported by the Associated Press from Miami, Fla., as saying "The South will allow nothing to impair white supremacy."

NEW VOTE TEST HELD PROBABLE

Age Herald-B'ham, Ala

ATLANTA, April 4.—(AP)—Fresh litigation over Negro voting privileges, this time arising in Georgia and South Carolina, may be forthcoming as result of the U. S. Supreme Court's decision that Negroes cannot be barred from Texas primary elections. 4-5-44

While Texas officials announced intention of seeking rehearing in the high court, a Negro spokesman in Georgia disclosed intention of Negroes to present themselves at polling places in the July 4 primaries.

C. A. Scott, chairman of the public affairs commitee of the National Association for Advancement of Colored People said the decision was "a new emancipation proclamation," and asserted: "It should give us an effective vote, and I expect to cast one in the primary of July 4."

Scott said if Negroes were denied ballots, despite qualification under state election laws, an appeal would be made to U. S. District Court. Electors have until May 8 to pay poll taxes, a requirement for voting in Georgia.

In South Carolina J. M. Hinton, Negro attorney, said more than $3,000 had been raised to appeal a case similar to that in Texas, and many observers regarded it as probable that a fresh demand for voting privileges would be predicated on the recent decision.

In Arkansas, Chairman J. C. Barrett, of the State Democratic Committee, said he believed Negroes who had paid poll taxes could vote for U. S. senatorial and congressional candidates in the Arkansas primaries, but might be excluded from voting on state and county officers. Suggestion of a separate ballot for federal officers was made by Pulaski County (Little Rock) Chairman June P. Wooten.

White Supremacy In State To Continue, Say Leaders

"We, the real Democrats of Alabama, will continue as always to maintain white supremacy in Alabama," said Sen. Lister Hill Tuesday at Mobile in commenting on the decision by the U. S. Supreme Court, which grants Negroes the right to vote in the Texas Democratic primaries.

He asserted that primary election laws in Alabama are different from those in Texas and that under the constitution, laws and party procedure of Alabama, Negroes cannot vote in primary elections.

Sen. Hill added that "we, the real Democrats, however, can expect little help from candidates of the Republican party." 4-5-44

Other Alabama Democrats voiced similar sentiments on the question which was raised by the Supreme Court decision.

Sen. John H. Bankhead said that Alabama voter classifications would ban Negroes from participating in Democratic primaries, and commenting on the decision itself he said:

"Some people are willing to destroy the constitution to carry out their own ideas of what they think ought to be."

Assertion that no change in the resolution of the State Democratic Executive Committee calling for a white primary "unless and until the Alabama statutes and state committee resolutions have been interpreted by the U. S. Supreme Court," was made by Gessner T. McCorvey, chairman of the State Democratic Executive Committee, in a statement in Mobile.

"In any event," he declared, "I am confident Democrats of Alabama will devise proper means for assuring white supremacy in this state."

Sen. James A. Simpson declared in Scottsboro Tuesday that "the decision admitting Negroes into white primaries in the South is a shocking thing. It is the gravest threat yet to our Southern traditions. We, Alabama Democrats, must and will find a way to preserve white supremacy which has been the slogan of our party for 75 years."

High Court Decides Negro Draft Pleas

WASHINGTON, May 29 (UP).—Negro, today was denied a Supreme Court review of his claims that he was unlawfully inducted into the Army because he was taken under a Negro quota and not strictly in the order of his serial number.

Winfred William Lynn, New York

14-1944

New Deal Court Rules That Negro May Vote

Johnstonian—Selma, N.C.

Now the Democrats of the South are in a hot seat.

The Roosevelt-packed New Deal Supreme Court has ruled that negroes shall not be barred from the Democratic primaries throughout the "white supremacy south" and a revolt from that decision is spreading.

The court ruled on a case involving Lonnie Smith, a negro, who contended he was denied the right to vote in a 1940 primary by Houston, Texas, election judges. There are an estimated 571,000 negroes of voting age in Texas. 5-13-44

The court's 8 to 1 decision stated that "the great privilege of choosing his rulers may not be denied a man by the state because of his color" and it has far-reaching implications in the South. The right to vote is given by the Constitution and not by any one party, the court said.

Immediately there was an upheaval. The Southern Democrats want their primaries as they like them. There was some stubborn determination in some states to pay no attention to the court's decision. In Mississippi, for instance, Chairman Herbert Holmes, of the Democratic executive committee declared, "We still have a few state's rights left, and one of our rights is to have Democratic primaries and say who shall vote in them. The Supreme court or no one else can control a Democratic primary in Mississippi."

Georgia's state Democratic committee chairman, J. Lon Duckworth argued that the Supreme court's action "is not a decision affecting the Georgia primary," and added "I would say the negroes are not qualified to vote in the Democratic white primary of this state."

Florida's Democratic committeeman, Tom Conely, declared, "We'll certainly resist if possible, any attempt to have negroes vote in our primaries." He added hope "that the court's decision won't have any effect in Florida." 5-13-44

John Fred Odom, chairman of Louisiana's state Democratic committee, said he was "not entirely surprised" at the ruling, but added it brought "a very serious situation." He said he would comment later.

Gov. Coke R. Stevenson and Atty. Gen. Grover Sellers of Texas, declined comment, pending study of the decision and chairman J. C. Barrett of the Arkansas Democratic committee also said he wished to study the ruling before reaching a conclusion.

Florida's secretary of state R. A. Gray, who supervises the Florida election machinery, withheld opinion, and Alabama's Democratic committee chairman, Gessner T. McCorvey, also was silent.

South Carolina's party rules stipulate that only a "white Democrat" is eligible for membership. However, one leader who declined to be quoted said Democrats had foreseen "just such an opinion" and in anticipation of it th legislature (all Democrats) had eliminated from the state election laws all reference to party organizations and left it with each party to determine who should participate in primaries. Available South Carolina Democratic leaders withheld comment.

Russell R. Kramer, chairman of the Tennessee Democratic executive committee foresaw no effect there. "There is nothing in our statutes about voting that pertains to race," he said, "and negroes do vote in Tennessee primaries." 5-13-44

North Carolina does not bar negroes from primary elections, and President Frank P. Graham of the University of North Carolina commented that "a gradually increasing number of educationally qualified negroes are voting each year in the primary and general elections."

In Virginia, E. R. Combs, national Dmocratic committeeman said the party had "never undertaken to bar negroes from Democratic primaries if they claim to be Democrats."

For One Election

The Supreme Court Monday rejected two requests for a rehearing of its recent decision in the Texas primary case. Columbia, S.C., Record

Grover Sellers, attorney general of Texas, and two Houston election judges involved in the case filed separate requests for a rehearing. The court denied both requests. 5-10-44

This ought to be evidence enough to Texas and the other Southern states that the court considers the issue settled by the court's previous decision upholding the right of Negroes to participate in the Texas primary. It ought to be evidence that the court will find a way to decide any other case that is brought to it the same way.

South Carolina at its special legislative session eliminated all laws having reference to the primaries. But even the Supreme Court can perceive what purpose the South Carolinians had in mind and find a way of defeating this purpose. South Carolina's strategem will be effective for this election only—if another case is taken to the Supreme Court, as doubtless it will. 5-10-44

Somebody in the state ought to be thinking ahead.

U. S. Supreme Court

Justice Jackson Writes Stirring Opinion Freeing Colored Laborer Who Was Sent to Workhouse for Owing White Man Five Dollars

Globe & Independent—Nashville, Tenn.

4-14-44

WASHINGTON, D. C. — The Supreme Court of the United States, for the second time in two weeks, blasted a pillar from under the structure of the South's political and economic system on Monday of this week when in a 7 to 2 decision it outlawed a peonage statute of Florida which, for thirty-five years has enabled a horde of labor exploiters to make fortunes.

The case that was decided on Monday of this week is as far reaching in its devastating effect as was the decision of the previous Monday when the Court outlawed the "white" primary law of Texas. It is a decision which will break up one of the worst "rackets" in the South. It is the "racket" that has enabled Southern planters, in connivance with the "law" to enslave working class people who get in debt and, for failing to pay these debts, are held to have committed a criminal offense and are then farmed out on plantations to work out their fines. In many cases the workers who are farmed out to the planters by the eminent "jurists" never get out of the debt of the "boss man" because he advances the debt-slave money and by a crooked system of bookkeeping, can show that the debt-slave is never out of the boss man's debt. 4-14-44

The Court had before it the case of Emanuel Pollock, colored who was accused of accepting in October of 1942 five dollars from J. V. O'Allora on a promise to do some work for the white man. When arrested, Pollock, without a lawyer to advise him, pleaded guilty. This was in January, 1943. Although Pollock was poor and ignorant, he nevertheless was fined $100 and was sent to jail for sixty days, all this for owing only five dollars.

The majority opinion was read by Justice Robert Jackson and was a blistering attack on the scheme of making a crime out of owing a debt. Justice Jackson recognized the right of states to punish persons for fraud, but he held that in the light of history there was no reason for the Court to believe that the Florida statute was either generally used or was useful to punish deceit. He held that it was a harsh situation when the master is privileged to compel and the laborer cannot escape the obligation to go on. 4-14-44

He warned the states that in undertaking to punish persons for fraud, due respect must be given to the provisions of the 13th Amendment to the Federal Constitution which prohibits slavery and servitude, even when the servitude was contracted for.

FLORIDA PEONAGE LAW RULED AS UNCONSTITUTIONAL

Guardian—Boston, Mass.

WASHINGTON, D.C. — 4-15-44

Supreme Court ruled as unconstitutional on a Florida "peonage" law enacted in 1919.

The case involved the court as a result of the arrest in January, 1943, of Emanuel Pollock, who was charged with accepting $5 from J. W. O'Allora, on a promise to do some work. Pollock pleaded guilty, without advice of counsel, and was sentenced under the Florida law.

The decision called the "peonage law" contrary to the guarantees of liberty granted in the 13th Amendment of the Constitution which prohibits involuntary servitude.

Supreme Court Acts

HOLDS FLORIDA 'PEONAGE' LAW UNCONSTITUTIONAL

Courier—Pittsburgh, Pa.

4-22-44

WASHINGTON, D. C.—The U. S. Supreme Court rendered its second decision favorable to Negroes in as many weeks when it ruled Monday that a Florida law under which a man failing to perform work under contract can be imprisoned, violated the Constitution. The court held the "peonage" law unconstitutional in a 7-to-2 decision.

The court's ruling, holding that the law offends provisions against peonage, frees Emanuel Pollock who was convicted of getting $5 from his employer and failing to perform the work promised.

Justice Jackson delivered the opinion. Chief Justice Stone and Justice Reed dissented.

Pollock, who was convicted in Brevard county of quitting work while owing his employer $5, appealed from the Florida Supreme Court. He was fined $100 and sentenced to 60 days in jail upon default.

The majority opinion said that the Florida Supreme Court had misconstrued previous high court decisions on the anti-peonage act, and that the Legislature had made failure to perform work "presumptive fraud in face of warnings." For this reason, it said, it reversed Pollock's conviction. 4-22-44

Justice Reed, who wrote the dissenting opinion, said that the court's decision went too far.

Another Racket Ended

Courier—Pittsburgh, Pa.

One of the oldest rackets in the country has been the practice of levying exorbitant fines on petty offenders which they are unable to pay and then forcing them into involuntary servitude for the county, and sometimes for a private employer on a lend-lease basis, until the debt is paid.

The U. S. Supreme Court last week dealt this racket a severe blow when it outlawed a Florida law of 1919 vintage, under which a Negro laborer was sent to jail for 60 days for lack of $100 to pay a fine imposed by the State court as penalty for not working off $5 advanced to him by an employer.

By various devices of this sort, Southern politicians in connivance with private employers have gained millions of hours of involuntary servitude from hapless Negroes and poor whites. 4-22-44

Now this particular racket is ended, and that is a definite stride in the direction of greater freedom in these United States.

AN ENLIGHTENED COURT

Mc—New York, N.Y.

FOR the second time in as many weeks, the United States Supreme Court has handed down a memorial decision affecting Negroes. First it was the Texas Democratic Primary decision and now it is the Florida "peonage" law enacted in 1919. 4-22-44

In declaring the Florida law unconstitutional, a decision from which two justices dissented, the Supreme Court opinion called the Florida law "peonage" for under it a Negro laborer was sent to jail for sixty days for lack of $100 to pay a fine imposed by the State court as penalty for not working off $5 advanced to him by an employer.

Justice Robert H. Jackson wrote the opinion which called the law contrary to the guarantees of liberty granted in the Thirteenth Amendment of the Constiution, which prohibits involuntary sevitude. Justice Stanley F. Reed dissented and Chief Justice Harlan Fiske Stone concurred in the dissent.

The case reached the Supreme Court as the result of the arrest in January, 1943, of Emanuel Pollock, who was charged with accepting, in the previous October, an advance of $5 from J. V. O'Albora, on a promise to do some work. Mr. Pollock pleaded guilty, without advice from counsel, and was sentenced. The court noted that he was "without funds" and that he said he "did not understand the nature of the charge against him", except that he owed the money, which he acknowledged.

The opinion stated that the Florida law "is the latest of a lineage," all of which have been associated with peonage, and that "in the light of its history," there was no reason to believe that the law was generally used or especially useful to punish deceit. 4-22-44

It added that the finding that "when the master can compel and the laborer cannot escape the obligation to go on, there is no power below to redress and no incentive above to relieve a harsh overlordship of unwholesome working conditions."

"It is true," the court stated, "that in each opinion dealing with statutes of this type this court has expressly recognized the right of the State to punish fraud, even in matters of this kind, by statutes which do not either in form or in operation lend themselves to sheltering the practice of peonage. Deceit is not put beyond the power of the State because the device for swindling is an agreement to labor. 4-22-44

"But when the State undertakes to deal with this specialized form of fraud it must respect the constitutional and statutory command that it may not make failure to labor in discharge of a debt any part of a crime. It may not directly or indirectly command voluntary servitude, even if it was voluntarily contracted for."

Like the Texas Democratic Primary decision, the Florida "peonage" law will have wide affect on conditions of Negroes in the South. They show that the court is becoming more liberal and paying more attention to the rights of citizens, regardless of race. It is now an enlightened court, and definitely starting to fill the function which our founding fathers envisioned for it.

Supreme Court Denies Review to Roxborough

Free Press—Detroit, Mich. 10-17-44

The United States Supreme Court Monday refused to review the conviction of John W. Roxborough and Everett I. Watson, Detroit Negroes, on numbers racket conspiracy charges.

They had asked a Supreme Court review of their sentence of 2½ to five years on the grounds of discrimination. They claimed that Chester P. O'Hara, special prosecutor, had excluded Negroes from serving on the jury.

* * *

IN OPPOSING their petition, Attorney General Herbert J. Rushton of Michigan said that Negro as well as white defendants were acquitted in the same case. He contended that Roxborough and Watson were trying to "use constitutional guarantees as a club rather than as a shield." 10-17-44

Previously the Michigan Supreme Court had upheld the convictions of Roxborough, Watson and 11 others, including Richard W. Reading, former mayor.

Roxborough formerly manaegd Joe Louis, world heavyweight boxing champion.

Supreme Court Turns Down Texas Plea For Vote Case Rehearing

Age—New York 5-13-44 N.Y.

WASHINGTON, D. C.—Pleas for a rehearing of the April 3rd decision of the Supreme Court that Negroes have a constitutional right to vote in Texas Democratic Primary elections were denied by the high court on Monday.

The action, taken through a formal order and without explanation, rejected requests made by Attorney General Grover Sellers, of Texas, and two election officials, James E. Liuzza and S. E. Allwright, concerned in the case in which Lonnie Smith won damages because an opportunity to vote at the polls was refused to him.

The decision was said by the Texas officials to contravene a ruling of 1935 by the Supreme Court upholding the exclusion of Negroes from the primaries. 5-13-44

The court's action on Monday closed the door to any judicial action aimed at barring Negro participation in the so-called Southern "white" primaries.

Supreme Court Upholds Firemen and Engineers

Bystander—Des Moines

Washington, D. C.—The Brotherhood of Locomotive Firemen and Enginemen was told by the supreme court Monday it must represent non-member Negro firemen without race discrimination. 12-21-44

In unanimous opinions by Chief Justice Harlan Stone, the court ruled that the railway labor act requires an exclusive bargaining agent for any craft or class to provide such representation.

Agreement Cited

Two Negro firemen were principals in the railway ruling. Bestor William Steele, working on the Louisville & Nashville railroad, cited an agreement between the union and 21 southeastern railroads restricting use of Negro firemen. The union also excludes them from its membership.

Tom Tunstall, who complained he was forced from his job and succeeded by a white man, also cited the agreement and sued the brotherhood for damages and the Norfolk Southern railway for reinstatement.

The brotherhood contended that the agreement with the companies was to make railroad operation more efficient and provide competent railroad men.

The court said the law does not deny a union the right to determine its membership but, in cases where it is the exclusive bargaining agent, it must represent non-union workers "without discrimination."

In another labor case, the dourt split 5 to 4 in upholding action of the national labor relations board in setting aside its certification of an independen union as a bargaining agent in the case of the Wallace Corp. of Richwood, W. Va.

New Court Challenges

Tribune—Houston, Texas

As this is written the Supreme Court of the United States has before it new challenges to discriminations against Negroes in American life. These challenges are against discrimination in the all-important labor movement. In their fundamental aspect they are very much like the statutory primaries in Texas, which it took twenty odd years to get a clear-cut decision from the Supreme Court saying that in these elections created and directed by state statute there could be no discrimination on account of race or color.

The present operations of the labor movement are very much like the statutory primary elections.

The fundamental right of collective bargaining has now generally become a right created by Federal law—the Railway Labor Act, the National Labor Relations Act. The protections for this right are very largely protections by Federal power. The fundamental question which arises, then, is whether or not a right so created and protected by Federal statute can be fettered by racial discrimination by those agents of collective bargaining thus invested with a statutory relationship. Maybe, by the time this is read, the Supreme Court will have given its answer. 12-20-44

14-1944

The Supreme Court's Great Test

Last week the United States Supreme Court took into consideration for decision one of the most "complicated" legal problems faced by the Government since Pearl Harbor, the constitutionality of moving Japanese-American citizens from their homes and placing them in concentration camps.

Lawyers on both sides have made their arguments in the case of a young man, Fred T. Korematsu, born in Oakland, Calif., and Miss Mitsuei Endo, born in Sacramento, Calif.

This Supreme Court decision is of transcendant importance to all citizens, but particularly to Negro citizens.

If the Supreme Court upholds the Roosevelt Administration in this crime committed against American citizens because of race and color, then no colored person in this country is safe in his home.

It will become perfectly legal to go into citizens' homes, arrest them and cart them off to concentration camps because of fearful whims of prejudiced officials.

Such a practice differs not a whit from that of the Nazi Gestapo, and no amount of talk about military necessity can conceal the fact for one minute.

If legalized, it will make a mockery of the Federal Constitution and introduce to this supposedly free Nation a practice widespread in totalitarian countries and condemned everywhere.

There are powerful forces in this country eager to get rid of Negroes by sending them "back to Africa" or moving them into some separate territory, as was done with the native Indians when it was desired to steal their land.

In the post-war period when racial tension may spread over the country, it will be a very bad thing to have a Supreme Court decision which has authorized the removal of citizens to suit the whims of politicians.

Negroes should watch carefully for this decision and prepare to fight it if it blesses the Nazi-like practices of the New Deal in regard to the Japanese-American citizens.

We may think that the problems of these unfortunate people are none of our business, but we will soon find that we are mistaken.

Court Edict on Negroes Will Strengthen Labor

The Worker — New York, N.Y.

By JAMES W. FORD 12-24-44

The United States Supreme Court decision upholding the right of full representation to Negro members in railroad unions, together with the supporting opinion of Justice Frank Murphy, is an history making action for equality and a victory for democracy.

It is unfortunate that it was necessary for such a decision to be made against labor unions. Fundamentally this decision is not against labor. An examination of the status of the question will show that it is in the best interests of labor. The decision is a blow against the vestiges of the semi-feudal conceptions of the slaveholders. Labor leadership and statesmanship consist in going forward and not in operating with outworn conceptions.

James W. Ford

The Dred Scott decision of the U. S. Supreme Court in 1857 held that a Negro was no more than "any other species of property." In the history of judicial decisions no opinion was so widely read by masses of people outside the legal profession as that decision. The decision we have before us today upholds the dignity of the Negro people and is aimed to sustain their full rights as citizens, and this decision will be read and studied widely as a great history making document. 12-24-44

FAVORED BY WHITES

The majority of the white membership of trade unions favor equal rights and full trade union status for Negro workers and this is exactly what the Supreme Court decision stands for. This is a victory for democracy, labor and the nation, and not alone a victory for the Negro people.

U.S. Supreme Court

High Court Rules for Tunstall

Tourgal + Guide
Norfolk, Va.

White Brotherhood Discrimination Policy Assailed

12-25-44

WASHINGTON, D. C.—The United States Supreme Court ruled Monday in the cases of Tom Tunstall, locomotive fireman of Norfolk, Va., and Bester W. Steele, that the Brotherhood of Locomotive Firemen and Enginemen must bargain collectively with southeastern railroads on behalf of non-member Negro firemen, because the brotherhood represents the entire craft of which the Negro constitutes a minority group.

UNANIMOUS OPINION

Speaking for a unanimous court, Chief Justice Harlan Fiske Stone, said:

"Unless the labor union representing a craft owes some duty to represent non-union members of the craft, at least to the extent of not discriminating against them as such in the contracts which it makes as their representatives, the minority would be left with no means of protecting their interest, or indeed, their rights to earn a livelihood by pursuing the occupation in which they are employed."

MR. HOUSTON

JUSTICE MURPHY'S OPINION MONUMENT TO DEMOCRACY

Associate Justice Murphy, concurring in the decision, delivered an opinion which may well become a monument to democracy. In it he said: "The economic discrimination against Negroes practiced by the Brotherhoods and the railroads under the color of congressional authority, raises a grave constitutional issue that should be squarely faced. 12-25-44

"The utter disregard for the dignity and the well-being of colored citizens shown by this record is so pronounced as to demand the invocation of constitutional condemnation. To decide the case and to analyze the statute solely on the basis of legal niceties, while remaining mute and placid as to the obvious and oppressive deprivation of constitutional guarantees, is to make the judicial function something less than it should be.

"Suffice it to say this constitutional issue cannot be lightly dismissed. The cloak of racism surrounding the actions of the Brotherhood in refusing membership to Negroes, and in entering into and enforcing agreements discriminating against them all under the guise of congressional authority, still remains. No statutory interpretations can erase this ugly example of economic cruelty against colored citizens of the United States.

ACCIDENT OF BIRTH ABUSED

"Nothing can discard the fact that the accident of birth has been used as the basis to abuse individual rights by an organization purporting to act in conformity with its congressional mandates. Any attempt to interpret the acts must take that fact into account and must realize that the constitutionality of the statute in this respect depends upon the answer given.

"The constitution voices its disapproval whenever economica discrimination is applied under authority of law against any race, creed, or color. A sound democracy cannot allow such discrimination to go unchal-

TOM TUNSTALL

lenged. Racism is far too virulent today to permit the slightest refusal, and the like of it, to expose and condemn it wherever it appears and because of its ever increasing menace to democracy.

"The Negroes complained that the brotherhood had entered into a collecting bargaining agreement designed to "sweep Negro firemen off" of southern roads.

TWO CASES INVOLVED

The court ruled in two cases involving Negro locomotive firemen, Tom Tunstall, formerly

ASKED $25,000

Tunstall had filed suit a-

gainst the brotherhood seeking $25,000 damages and restoration of his job. His suit was dismissed by the United States District Court of Norfolk, the late Judge Luther B. Way presiding, and was affirmed when the case was heard on appeal by the Fourth Circuit Court of Appeals, both holding that federal courts had no jurisdiction.

The Supreme Court specifically overruled that decision and remanded the case to the lower court for further proceedings.

TUNSTALL CASE

The Tunstall case, instituted in Norfolk by Charles E. Houston and Joseph C. Waddy of Washington, D. C., and Oliver C. Hill of Richmond, was argued by these lawyers before the late Judge Way in March, 1943. The plaintiff sued individually, and as a representative of the Association of Colored Railway Trainmen and Locomotive Firemen, S. H. Clarke, Roanoke, Va., president. James G. Martin and William G. Maupin, Norfolk attorneys, represented the brotherhood and the railroads respectively.

Arguing the case before the Supreme Court was Mr. Houston, who explained to the court that on March 28, 1940, the brotherhood, purporting to act as the representative of the entire craft of firemen under the Railway Labor Act, served notice on twenty-one railroads in the southeastern part of the United States of its desire to amend the existing collective bargaining agreements covering firemen so as to drive colored firemen completely off the railroads.

ENTERED INTO AGREEMENT

The railroads entered into an agreement on February 18, 1941, with the brotherhood as the exclusive representative of the craft. This agreement provided that not more than fifty per cent of the firemen in each class of service (freight, passenger, etc.,) in each seniority district should be colored. It further provided that until such percentage was reached, all new runs and all vacancies should be filled by white men and that colored men should not be employed in any seniority district in which they were not working.

This agreement reserved the right to the brotherhood to press for further restrictions on the employment of colored firemen on the individual carriers.

Mr. Houston said that the brotherhood in negotiating these agreements gave colored firemen no notice, opportunity to be heard or to vote, and did not disclose their existence until it forced Tunstall off his run by virtue of them and in pursuance of its policy of trying to obtain a monopoly of jobs for its own members.

At the time the agreements became effective, a non-member colored fireman and a white brotherhood fireman were being used on passenger train service on the northern seniority district of the Norfolk Southern on an interstate run. The white fireman quit in June, 1941, and Tunstall was assigned to the run.

Mr. Houston said Tunstall performed his duties satisfactorily to the railroad until Oct. 10, 1941, when the brotherhood acting as representative of the entire craft of firemen forced the railroad to replace him with one of its own members on the ground that colored firemen were exceeding their quota of jobs under the agreements.

THE STEELE CASE

Steele is a locomotive fireman employed by the Louisville and Nashville Railroad on its seniority district known as the South and North Alabama Division. He sued the brotherhood to enjoin enforcement of the agreement negotiated by the brotherhood for the whole craft of firemen and also to enjoin it from acting as his representative under the Railway Labor Act so long as it refused to give him an opportunity to be heard in the formation of policy adversely affecting his interest and so long as it discriminated against colored firemen in favor of its white members. He sought damages of $50,000.

He holds seniority as a fireman on the south and north Alabama Division from March 5, 1910. At the time the agreement became effective, he was 55 years of age, in perfect health and had worked to the complete satisfaction of the railroad, without a demerit in sixteen years.

HELD GOOD JOB

From December 28, 1921, to April 8, 1941, he was in road passenger service. Prior to the passage of the Railway Labor Act he was in the South-End passenger pool, one of the best jobs in his seniority district. His contract of employment included the terms of the collective bargaining agreement of March 1, 1929, between the railroad and its firemen. That agreement provided that in assignment of runs preference should be given to the oldest foreman in road service when competent.

The questions presented to the Supreme Court were (1) Whether under the Railway Labor Act a labor organization acting as representative of a craft or class is under an obligation to represent all employees of the craft without discrimination because of their race; and (2) whether the courts have jurisdiction to protect a minority of a craft or class.

It was Mr. Houston's contention that a labor union which bars workers within the craft from membership solely because of race, is disqualified to act as representative of the craft, and that federal courts have jurisdiction to declare the relative rights and duties between the representative under the Railway Labor Act and the members of the craft which it represents, and to redress wrongs resulting from a violation of its duties.

In the Supreme Court, the United States Justice Department, as a friend of the court filed a brief supporting the contention of the plaintiffs.

4,000 Firemen Affected By U. S. Supreme Court Ruling

By ERNEST E. JOHNSON

WASHINGTON. — (ANP)—An estimated 4,000 Negro firemen and brakemen who in one way or another have been "under the hammer" of the Brotherhood of Locomotive Firemen and Enginemen because of an agreement between the union and 21 southern railroad companies, now find themselves in a position for the first time to collect damages and to win reinstatement to their former jobs, all as a result of the unanimous decision of the United States Supreme court Monday, December 18, in the famous Steele and Tunstall cases.

"The court substantiated the fact that we have a cause of action which we will now have to enforce," declared Charles H. Houston, general counsel for the petitioners who presented their cases before the high tribunal five weeks ago.

Strong Opinion by Murphy

While the court unanimously held that Bester William Steele's complaint against the Louisville and Nashvile railroad, and the brotherhood, and that of Tom Tunstall against the brotherhood, warranted a remedy which only the courts could provide, Chief Justice Harlan Stone, in reading the opinion, did not go so far as did Associate Justice Frank Murphy in a concurring opinion.

"The economic discrimination against Negroes practiced by the brotherhood and the railroad under color of congressional authority raises a grave constitutional issue that should be squarely faced," wrote Mr. Murphy. "The utter disregard for the dignity and the well-being of colored citizens shown by this record is so pronounced as to demand the invocation of constitutional condemnation.

"To decide the case and to analyze the statute solely upon the basis of legal niceties, while remaining mute and placid as to the obvious and oppressive deprivation of constitutional guarantees, is to make the judicial function something less than it should be."

Must Represent All

The question before the court was whether the Railway Labor act imposes on a labor organization, acting by authority of the statute as the exclusive bargaining representative of a craft or class of railway employes, the duty to represent all the employes in the craft without discrimination because of their race, and, if so, whether the courts have jurisdiction to protect the minority of the craft or class from the violation of such obligation.

"While the majority of the craft chooses the bargaining representative when chosen it represents, as the act by its terms makes plain, the craft or class, and not the majority," ruled the court. "The fair interpretaiton of the statutory language is that the organization chosen to represent a craft is to represent all its members, the majority as well as the minority, and it is to act for and not against those whom it represents."

The court said that this intrepretation does not bar a representative for a craft from making contracts which "may have unfavorable effects on some of the members of the craft," but maintained that "discriminations based on race alone are obviously irrelevant and invidious."

Must Consider Requests

The court's ruling held further that the union is not only under obligation to represent non-union or minority members of the craft "without hostile discrimination," but that "wherever necessary to that end, the union is required to consider requests of non-union members of the craft and expressions of their views with respect to collective bargaining with the employer and to give to them notice of an opportunity for hearing upon its proposed action."

Whereas the Railroad Adjustment board was established for the purpose of settling certain categories of disputes, its very compostion, the court held, denies Negro firemen of "administrative means" by which they can secure separate representation for the purposes of collective bargaining.

Explaining the next moves, Mr. Houston said that in the Steele case, the matter goes back to the circuit court of Alabama. Tunstall takes his dispute to the circuit court of appeals for the fourth district to clear up the issue of service of papers. From there it goes to the U. S. District court where the action was begun.

Steele is a member of the International Association of Railway employes, counsel for which were Joseph Waddy and Arthur Shores, the latter of Birmingham. Tunstall, a member of the Association of Colored Railway Trainmen and Locomtive firemen, was represented by Waddy and Oliver Hill. Mr. Houston was general counsel for both petitioners.

14-1944

U. S. Supreme Court

The Supreme Court and Racialism

The Nation.
Cincinati, Ohio 12-30-44

WE FIND the weak handling of racial issues by the United States Supreme Court deeply disturbing. The majority of opinions in the cases involving anti-Negro discrimination by the Brotherhood of Locomotive Firemen and Engineers are unworthy of the court. So basic an issue called for the clear affirmation of fundamental constitutional guaranties. The opinions, while upholding Negro rights, were turgid, legalistic, and evasive. The cases called into question contracts between the Brotherhood and certain Southern railroads depriving Negroes of jobs and giving those jobs to white men. The right of the Brotherhood to act as an exclusive collective-bargaining agent derives from a federal statute, the Railway Labor Act. And the Fifth Amendment gives the Supreme Court ample leeway to end a situation in which this exclusive bargaining agent at one and the same time excludes Negroes from membership and bargains away their rights. Something more was called for than the court's two meek little sentences on the Negro issue: "Here the discriminations based on race alone are obviously irrelevant and invidious. Congress plainly did not undertake to authorize the bargaining representative to make such discriminations." The round-robin-hood's-barn reasoning of the majority merely serves to widen the area of judicial interference in labor contracts without strongly and squarely outlawing racial discrimination in such contracts. 12-30-44

The Nation is glad that one member of the court, Justice Murphy, spoke out manfully against the queasy attitude of the majority. "To decide the case and to analyze the opinion solely upon the basis of legal niceties," he said in his concurring opinion, "while remaining mute and placid as to the obvious and oppressive deprivation of constitutional guarantees, is to make the judicial function something less than it should be." Justice Murphy declared that "no statutory interpretation can erase this ugly example of economic cruelty against colored citizens of the United States" and warned that racism is "far too virulent today to permit the slightest refusal, in the light of a constitution that abhors it, to expose and condemn it wherever it appears in the course of a statutory interpretation." We note that Justice Black concurred only in the result. We hope he shared Justice Murphy's feelings.

We find ourselves equally disturbed by the Korematsu case in which a badly split court handed down no less than five separate opinions, one by Justice Black for the majority, a concurring opinion by Justice Frankfurter, and separate dissents by Justice Roberts, Justice Murphy, and Justice Jackson. The case involved an American citizen of Japanese descent found guilty of violating a military exclusion order in California. The case had difficulties obvious enough to discourage dogmatic lay judgment, but certain points made in the individual opinions merit closer public attention. 12-30-44

Justice Roberts made the point that Korematsu was actually subject to arrest under two conflicting military orders, one requiring him to stay where he was, the other requiring him to leave, and termed this "a cleverly devised trap to accomplish the real purpose of the military authority, which was to lock him up in a concentration camp." Justice Roberts thought the court should have addressed itself to "the actualities of the case," instead of setting up "a figmentary and artificial situation." Justice Murphy did not see why Japanese, like German and Italian Americans, could not have been given separate loyalty hearings. He pointed out that while the military argued the need for speed, "nearly four months elapsed after Pearl Harbor before the first exclusion order was issued; nearly eight months went by until the last order was issued; and the last of these 'subversive' persons was not actually removed until almost eleven months had passed." Justice Murphy says "there was no adequate proof" that the F. B. I. and military intelligence did not have the situation well in hand and points to the excellent record made by Japanese Americans. "I dissent, therefore," he said, "from this legalization of racialism."

Justice Frankfurter, concurring, took a middle position. He felt the military had ample power in time of war to do what they did but did not feel impelled to approve what they did; "that is their business, not mine." This judicial abnegation at least has the virtue of meeting the basic point raised by Justice Jackson's dissent. "Much is said," he declared, "of the danger to liberty from the army program for deporting and detaining these citizens of Japanese extraction. But a judicial construction of the due-process clause that will sustain this order is a far more subtle blow to liberty than the promulgation of the order itself. A military order, however unconstitutional, is not apt to last longer than the military emergency . . . but once a judicial opinion rationalizes such an order to show that it conforms to the Constitution . . . the court for all time has validated the principle of racial discrimination in criminal procedure. . . . The principle then lies about like a loaded weapon ready for the hand of any authority that can bring forward a plausible claim of an urgent need." 12-30-44

In the light of that sound observation, we shudder when we read in Justice Black's opinion, "It should be noted to begin with, that all legal restrictions which curtail the civil rights of a single racial group are immediately suspect. *That is not to say that all such restrictions are unconstitutional.* It is to say that the courts must subject them to the most rigid scrutiny. *Pressing public necessity may sometimes justify the existence of such restrictions;* racial antagonism never can." The italics, and the forebodings, are ours. We do not feel that these forebodings are made groundless by the unanimous ruling of the court in the Endo case, and its dictum that "loyalty is a matter of the heart and mind, not of race, creed, or color." We are glad that the court freed Endo, a Japanese American of unquestioned loyalty, from detention, but we share the doubts expressed in their separate concurring opinions by Justices Murphy and Roberts and suspect that here again the majority evaded the basic issue. We fear that these Japanese cases are the thin edge of the wedge by which racial discrimination makes its first unmistakable appearance in American constitutional law. 12-30-44

U.S. Supreme Court Hands Down 2 Unanimous Decisions On Negro Employes Of Railroads

Age—New York—12-24-44
12-23-44

WASHINGTON, D. C. — In two unanimous decisions, the United States Supreme Court ruled Monday that Negro employes on American railroads are protected by the Railway Labor Act against management labor pacts seeking to drive them out of their jobs or deny them promotions.

The decisions had bearing on a long-standing complaint of Negro locomotive firemen who have charged that they are being "swept off" Southern railroads as the result of a 1941 collective bargaining agreement between the Brotherhood of Locomotive Firemen and Enginemen and 21 Southern railroads

Chief Justice Stone, who read the opinions in both cases, declared that the brotherhood which has refused membership to Negroes, must represent all employes in its negotiations with the railroads because the Railway Labor Act makes it the exclusive bargaining agent of an entire "craft" of employes. Negroes, it was said, constituted a minority in that "craft." 12-23-44

"Unless," said Chief Justice Stone, "the labor union representing a craft owes some duty to represent non-union members of the craft, at least to the extent of not discriminating against them as such in the contracts which it makes as their representatives, the minority would be left with no means of protecting their interests or, indeed, their right to earn a livelihood by pursuing the occupation in which they are employed."

decided unanimously that the Railway Labor Act impo[ses] a union representative of a craft the obligation to represent the interests of all its members impartially and that a railroad is not bound or entitled to take the benefit of a contract which the bargaining representative is prohibited by promotable and designed to drive from making. Negro firemen from railroad employment. 12-30-44

The decision was by Associate Justice Murphy, in the Tunstall and Nash-Kuisville & Nashville Railroad Company and the Steele cases against the Louisville & Nashville Railroad Company and the Brotherhood of Locomotive Firemen and Enginemen. Att'y Charles Houston argued successfully that an opinion which may well become the Supreme Court of Congressional authority raises a grave constitutional issue that should be squarely virtually nullified the Brotherhoods ly faced.

The decision was under color of Congressional au-Carriers' Agree-the Brotherhood and the railroad eastern railroads Negroes are non-

SUPREME COURT SAYS RAILWAY BROTHERHOODS MUST NOT USE JIM CROW AGAINST ANY MEMBER

12-30-44

Organization Attempts to Drive Negro Firemen From Their Membership in Union

POWER IS DERIVED FROM CONGRESS

By HARRY McALPIN

WASHINGTON.—(NNPA)—In a far-reaching decision the Supreme Court today provides Negroes as important economically to Negroes as the Texas White and the Southeastern Primary decision was politically, the

dignity and the well-being of colored citizens shown by this record is so pronounced as to demand the invocation of constitutional condemnation. To decide the case and to analyze the statute solely upon the basis of legal niceties, while remaining mute and placid as to the obvious and oppressive deprivation of constitutional guarantees, is to make the judicial function something less than it should be.

"The constitutional problem inherent in this instance is clear. Congress, through the Railway Labor Act, has conferred upon the union selected by a majority of a craft or class of railway workers the power to represent the entire craft or class in all collective bargaining matters. While such a union is essentially a private organization, its power to represent and bind all members of a class or craft is derived solely from Congress. The Act contains no language which directs the manner in which the bargaining representative shall perform its duties. But it cannot be assumed that Congress meant to authorize the representative to act so as to ignore rights guaranteed by the Constitution. Otherwise the Act would bear the stigma of unconstitutionality under the Fifth Amendment in this respect. For that reason I am willing to read the statute as not permitting or allowing any action by the bargaining representative in the exercise of its delegated powers which would in effect violate the constitutional rights of individuals.

U.S. Supreme Court Decides for Colored Firemen

AFRO-AMERICAN 12-23 WASHINGTON.

Congress never intended to authorize the bargaining representative of a craft or class of railway employees to discriminate against the minority of the craft or class because of race or color, the U.S. Supreme Court unanimously held in companion cases last Monday.

The opinions were delivered by Chief Justice Harlan F. Stone in the cases of Bester William Steele and Tom Tunstall, locomotive firemen on two Southern railroads.

Agreements Attacked

Steele and Tunstall attacked the legality of collective bargaining agreements entered into by the Brotherhood of Locomotive Firemen, which by its constitution and ritual excludes colored persons from membership. 12-23-44

The agreement provided that not more than 50 per cent of the firemen in each class of service (freight, passenger, etc.) in each seniority district should be colored; that until such percentage was reached all new runs and all vacancies should be filled by white men, and that colored men should not be employed in any seniority district in which they were not working.

Rights Further Curtailed

In the Steele case, the brotherhood on May 12, 1941, negotiated a supplemental agreement with the Louisville and Nashville Railroad Company further curtailing colored firemen's seniority rights and restricting their employment.

Steele brought suit against the railroad, the brotherhood, and certain individuals representing the railroad or the brotehrhood. The circuit court sustained demurrers, and the Alabama Supreme Court affirmed the judgment of the trial court dismissing the suit.

Injunction Sought

Tunstall sued in the Federal Court for the eastern district of Virginia, naming as defendants his employer, the Norfolk Southern Railway, the brotherhood, and certain of its subsidiary lodges, and one of its officers.

The court dismissed his suit for want of jurisdiction, and the Circuit Court of Appeals for the Fourth Circuit affirmed the decision.

The two firemen requested a declaratory judgment that the union represent all employees fairly, that an injunction be issued against enforcement of the brotherhood agreement with the carriers and that the petitioners be restored to their jobs.

Sent Back to Lower Court

The Steele case was reversed and remanded to the Alabama courts for further proceedings not inconsistent with the opinion of the Supreme Court.

As jurisdictional questions other than that of no diversity of citizenship were raised in the Tunstall case but no considered by the Court of Appeals, that case was remanded to that court for further proceedings.

Must Act for All

In the opinion in the Steele case, Justice Stone declared:

"That Congress, in enacting the Railway Labor Act and authorizing a labor union, chosen by a majority of a craft, to represent the craft, did not intend to confer plenary power upon the union to sacrifice, for the benefit of its members, the rights of the minority of the craft, without imposing on it any duty to protect the minority."

He said that since Steele and other colored firemen were not members of the brotherhood or eligible for membership, the authority to act for them was derived not from their action or consent but wholly from the mandatory provisions of the act. AFRO-AMERICAN 12-23-44

Can't Represent Majority Only

The word, "representative," as used in the Railway Labor Act, the Justice pointed out, "plainly implies that the representative is to act on behalf of all the employees which, by virtue of the statute, it undertakes to represent.

"Unless the labor union representing a craft owes some duty to represent nonunion members of the craft, at least to the extent of not discriminating against them as such in the contracts which it makes as their representative, the minority would be left with no means of protecting their interest or, indeed, their right to earn a livelihood by pursuing the occupation n which they are employed.

"While the majority of the craft chooses the bargaining representative, when chosen, it represents, as the act by its terms makes plain, the craft or class, and not the majority."

Hits Racial Discrimination

He pointed out that there may be certain "variations in the terms of the contract based on differences relevant to the authorized purposes of the contract in conditions to which they are to be applied, such as differences in seniority, the type of work performed, the competence and skill with which it is performed," but that "discriminations based on race alone are obviously irrelevant and invidious.

"Congress plainly did not undertake to authorize the bargaining representative to make such discriminations."

Union Conduct Unlawful

The representative which practices racial discrimination, he said, "may be enjoned from so doing, and its members may be enjoined from taking the benefit of such discriminatory action. No more is the railroad bound by or entitled to take the benefit of a contract which the bargaining representative is prohibited by the statute from making.

"In both cases the right asserted, which is derived from the duty imposed by the statute on the bargaining representative, is a federal right implied from the statute and the policy which it has adopted. It is the federal statute which condemns as unlawful the brotherhood's conduct."

"While the statute does not deny to such a bargaining labor organization the right to determine eligibility to its membership," Chief Justice Stone said," it does require the union, in collectve bargaining and in makng contracts with the carrier, to represent non-union or minorty union members of the craft without hostile discrimination, fairly, impartially, and in good faith."

There were no administrative means by which Steele and other colored firemen could secure separate representation for the purposes of collective bargaining, said Justice Stone, and their only resort was to the courts.

Racism Discussed

Although a separate opinion was written in the Tunstall case, the court relied upon its reasoning in the Stele case as the basis of its decision. 12-23-44

In his concurring opinion in the Steele case, Justice Murphy discarded "legal niceties" and discussed "racism in the light of a Constitution that abhors it."

Houston Argues Case

Charles H. Houston, attorney for the two firemen, argued both cases. On the brief with Mr. Houston were Joseph C. Waddy, who is now in the Army, and Oliver W. Hll of Birmingham.

The Department of Justice filed a brief as a "friend of the court" through Charles Fahy, solicitor general, and Robert L. Stern, special assistant to the attorney general.

On the Justice Department brief also were Alvin J. Rockwell, general counsel of the National Labor Relations Board, and Ruth Weyand, Joseph B. Robison, Frank Donner, and Marcel Mallet-Prevost, attorneys for that agency.

unanimous opinions, both written by Chief Justice Stone.

In one opinion the court ruled in favor of Bestor William Steele, a fireman on the Louisville and Nashville Railroad since 1910. He protested that he and other negro firemen were discriminated against by an agreement between the Brotherhood of Locomotive Firemen and Enginemen and 21 Southeastern railroads.

In the second opinion the court held that a negro locomotive fireman who complained he was forced from his job and replaced by a white man is entitled to protection under the act. The fireman in this case, Tom Tunstall, protested like Steele against the agreement between southeastern railroads and the brotherhood.

The Supreme Court upheld, as of that time, the Army's 1942 orders for exclusion of persons of Japanese ancentry from the West Coast, but at the same time held in another case that a Japanese-American citizen of unquestioned loyalty is entitled to freedom of movement now.

THE SUPREME COURT STRIKES AGAIN

Afro American — Baltimore, Md. 4-22-44

Two weeks ago the U.S. Supreme Court shocked Dixie by declaring the white Democratic primary illegal. Last week, before the South could recover, it struck again, outlawing peonage.

The Thirteenth and Fifteenth Amendments, the high court said, are still a part of the Constitution.

The peonage case involved Emanuel Pollock, who was given sixty days in jail as a penalty for not "working off" $5 advanced him by a white employer.

In most States a man who owes another $5 or any amount can be prosecuted in the civil but not in the criminal courts.

In Florida, Georgia, and some other Southern States, he can be and is imprisoned for debt. Following this, the employer bails him out to work off his fine, and in this way holds him in what the Thirteenth Amendment styles "involuntary servitude."

By keeping workers in debt and constantly in fear of prosecution by the courts, many white Southern employers make virtual slaves of colored workers.

It was against this practice that the Supreme Court spoke last week. Its decision makes it possible now for sharecroppers hopelessly in debt, to leave their farms and seek new employment without fear of arrest.

Negro Firemen Win High Court Appeal

The Supreme Court unanimously upheld today a negro railroader's contention that a union acting under the railway labor act is duty-bound to represent minority negro firemen impartially. advertiser

The court ruled that the law "imposes on a labor organization acting as the exclusive bargaining representative of a craft or class of railway employes, the duty to represent all the employes in the craft without discrimination because of their race." Montgomery, Ala.

The finding was made in two

Brotherhood Must Bargain For Negroes, Court Rules

PM's

WASHINGTON, Dec. 19.—The Brotherhood of Locomotive Firemen and Enginemen must bargain collectively with Southeastern railroads in behalf of non-member Negroes, the Supreme Court has ruled without dissent.

The Court decision was handed down yesterday by Chief Justice Harlan F. Stone. It was based on the fact that—even though Negro firemen are excluded from the union, the Brotherhood represents an entire "craft," of which the Negroes constitute a minority group.

Associate Justice Frank Murphy concurred in the unanimous decision but had his own ideas of why. He contributed his own statement to the Court's decision.

The Negroes complained that the Brotherhood entered into a collective bargaining agreement with 21 railroads which was intended to "sweep Negro firemen off all Southern roads."

One has filed suit to collect $25,000 damages and his job back. The suit was dismissed by the Fourth Circuit Court, which ruled Federal Courts had no jurisdiction. The Supreme Court specifically overruled that decision and remanded the case to the Lower Courts.

Chief Justice Stone said that if the minority group had no representation by the union the minority would be left without means to protect their interests or even their right to earn a livelihood in the occupation in which they are employed.

In his concurring decision, Associate Justice Murphy attacked the conditions on southern railroads directly.

"The economic discrimination against Negroes practiced by the Brotherhood and the railroad under color of Congressional authority raises a grave Constitutional issue which should be squarely faced." he said.

"The utter disregard for the dignity and well-being of the colored citizens shown by this record (of the Lower Court) is so pronounced as to demand the invocation of Constitutional condemnation." he added.

"To decide the case and analyze the statute solely on the basis of legal niceties, while remaining mute and placid as to the obvious and oppressive deprivation of Constitutional guarantees, is to make the judicial function something less than it should be . . . it cannot be assumed that Congress meant to authorize the representative (the union) to act so as to ignore rights guaranteed by the Constitution . . .

"No statutory interpretation can erase this ugly example of economic cruelty against colored citizens of the U. S. A. . . . A sound democracy cannot allow such discrimination to go unchallenged. Racism is far too virulent today . . ."

Supreme Court Hits Jim Crow

12-22-44

Brotherhood Must Represent Negro Firemen

WASHINGTON, D. C. — In a far-reaching decision as important economically to Negroes as the Texas white primary was politically, the U. S. Supreme Court Monday, Dec. 18, told the Brotherhood of Locomotive Firemen and Enginemen that it must represent non-member Negro firemen without race discrimination. Negro firemen are excluded from membership in the union because of their race.

The court ruled unanimously that the Railway Labor Act imposes upon a union representative of a craft the obligation to represent the interest of all members of the craft impartially and that a railroad is not bound or entitled to take the benefit of a contract which the bargaining representative is prohibited by the statute from making.

The decision was handed down in cases brought against the Louisville and Nashville Railroad company and the Brotherhood of Locomotive Firemen and Enginemen by two Negro firemen, Bester William Steele, an employe of the L and N railroad and Tom Tunstall.

Atty. Charles H. Houston of Washington was the lawyer who successfully argued the cases before the Supreme court.

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Non-Promotable Organization

The decision virtually nullifies the Southeast Carrier agreement between the brotherhoods and the railroad operating in the Southeast which provides Negroes are non-promotable. The agreement is designed to drive Negro firemen heads charged that the company knew how to create a racial situation that was aimed to divide and conquer the union by employing the reverse tactics of upgrading a Negro worker, in this case Bonnie Morgan, over a white worker whose seniority exceeded that of the Negro.

12-22-44

First, the company is charged with deliberately firing the white worker to make room for the upgrading of the Negro worker, although there exists still an unfilled supervisory post that should have been filled by Morgan, while the post Morgan now holds should have been filled by the white worker. Secondly, workers claim that in view of the deliberate violation of seniority rules by the company, the strike was more of a protest strike than a race hate strike, since whites do not oppose Morgan being upgraded but merely demand that the fired white worker be returned to his job.

Three principal points, therefore, seem to loom as the basic cause for the seven-day strike that is said to have stopped vital war production at the Pullman plant. They are (1) protest against the company's firing of the unnamed white worker; (2) upgrading Morgan in violation of seniority rules and (3) refusal to fill a third supervisory vacancy.

White union leaders are said to have encountered considerable difficulty at first in showing white workers the real issues involved. Joe Germano, regional director of the United Steel Workers union, was confronted by an irate group of white strikers who called him all kinds of names before he could make them understand the basic element of the isue. Other union heads had similar experiences.

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Public officials, including Mayor Edward J. Kelly, were asked to intervene to bring the strike to an end. Settlement of the strike leaves Morgan intrenched in his position as group leader of white and Negro workers but an effort is being made by the union to adjust the matter of the fired worker.

Court Decision Favors Colored Rail Firemen

12-22-44

"Agreement" Of Unions, Roads Is Nullified

BY HARRY McALPIN

WASHINGTON — (N N P A) — In a far reaching decision as important economically to Negroes as the Texas Primary decision was politically, the Supreme Court Monday decided unanimously that the Railway Labor Act imposes on a union representative of a craft the obligation to represent the interests of all its members impartially and that a railroad is not bound or entitled to take the benefit of a contract which the bargaining representative is prohibited by the statute from making.

The decision was handed down in the Tunstall and Steel cases against the Louisville and Nashville Railroad Company and the Brotherhood of Locomotive firemen and enginemen. Attorney Charles Houston successfully argued the cases before the Supreme Court.

The decision virtually nullifies the southeast carrier agreement between the Brotherhoods and the railroad operating in the southeast which provides Negroes are non-promotable and designed to drive Negro firemen from railroad employment.

12-22-44

Associate Justice Murphy, concurring in the decision, delivered an opinion which may well become a monument to democracy. In it he said: "The economic discrimination against Negroes practiced by the Brotherhoods and the Railroad under color of congressional authority raises a grave constitutional issue that should be squarely faced.

"The utter disregard for the dignity and the well being of colored citizens shown by this record is so pronounced as to demand the invocation of constitutional condemnation. To decide the case and to analyze the statute solely on the basis of legal niceties, while remaining mute and placide to the obvious and oppressive deprivation of constitutional guarantees, is to make the judicial function something less than it should be.

"Suffice it to say this constitutional issue cannot be lightly dismissed. The cloak of racism surrounding the actions of the Brotherhood in refusing membership to Negroes and in entering into the enforcing agreements discriminating against them all under the guise of congressional authority, still remains. No statutory interpretation can erase this ugly count to interpret the acts must example of economic cruelty aaginst colored citizens of the United States.

"Nothing can discard the fact that the accident of birth has been used as the basis to abuse individual rights by an organization purporting to act in conformity with its congressional mandates. Any account to interpret teh acts must take that fact into account and must realize that the constitutionality of the statute in this respect depents upon the answer given.

"The constitution voices its disapproval whenever economic discrimination is applied under authority of law against any race, creed or color. A sound democracy cannot allow such discrimination to go unchallenged. Racism is far too virulent today to permit the slightest refusal, and the like of a constitution that abhors it, to expose and condemn it wherever it appears and because of a statutory interpretation."

12-22-44

Firemen to Get Square Deal

Afro-American

Balt., Md.

Carrier Agreement Suffers Setback

12-23-44

RACISM ATTACKED

Demands of Railway Labor Act Cited

WASHINGTON — (NNPA) — The U.S. Supreme Court on Monday saved colored locomotive firemen from threatened economic slavery.

The court decided unanimously that the Railway Labor Act imposes on a union the obligation to represent the interest of all its members impartially, and that a railroad is not bound or entitled to take the benefit of a contract which the bargaining representative is prohibited by the statute from making.

The decision was handed down in the Tunstall and Steel cases against the Louisville and Nashville Railroad Company and the Brotherhood of Locomotive Firemen and Enginemen.

The Cases

Bester W. Steele and Tom Tunstall, colored firemen on L. and N. and Norfolk Southern R.R.s sued AF of L Locomotive Firemen and Engineers' Union for equal rights as union members without discrimination on account of color.

The unions won before the Railway Labor Board, in the Alabama Circuit and Appeals Courts, also in the U.S. District Court and the U.S. Fourth District Court of Appeals.

The Issues

The unions are composed of white engineers and firemen; exclude colored firemen from membership, and contracted with railroads to bar all colored firemen from promotions to engineers and limit future employment to white firemen only.

Under the Railway Labor Act, Congress gave the majority of workers in any class or craft the right to represent the whole craft or class in collective bargaining.

Since the majority in this case was white, it formed a union of whites only and said it had the right to exclude colored.

The High Court's Decision

Justice Stone, speaking for the court:

While the majority of a craft

pose and condemn it whenever it appears. 12-23-44

Attorneys

Charles Houston represented the firemen.

The U.S. Department of Justice intervened on the part of the government to assist Houston. At the trial Justice Roberts and Justice Rutledge quizzed the attorneys for the unions and the Brotherhood Railroads unmercifully.

Affects Red Caps Too

e Opinion

hy, agreeing with ressed by the ma- S. Supreme Court, opinion on which tion that the Con- nterprets it, means can't discriminate workers or deny ip.

too virulent today, discrimination to or to fail to ex-

Separate Opi

Justice Murphy, a the verdict expresse jority of the U.S. Su filed a separate opini he took the position stitution as he interpr that this union can't against colored work them membership.

Racism is far too vi he said, to allow discr go unchallenged or t

The decision Monday affects also the Red Capsw hom the U.S. Supreme Court refused a hearing in a similar case recently.

At that time Red Caps' attorney, James A. Cobb argued that if the white majority refused colored minority membership, the Red Caps should be permitted to form their own union.

Twenty-one other railroads under the Louisville and Nashville and the Norfolk Southern discriminate against colored workers through lily-white labor unions. They will be affected by this high court decision.

Supreme Court Makes Momentous Ruling

THE unanimous decision handed down Monday in the case of TUNSTALL vs. Norfolk Southern Railway and others is significant mainly because of its bearing upon the right assumed by certain railway unions under the Railway Labor Act to exclude Negroes from membership in the unions, while at the same time reserving to the unions the right to act as the sole bargaining agency for the Negro workers. The decision of the Court makes this arrangement illegal if discrimination is practiced as held to be true by the Court in the firemen's case.

Acting as the sole bargaining agency for Negro firemen the Brotherhood of Locomotive Firemen and Enginemen had contrived to remove most of the Negro firemen on the southern railroads from their jobs, despite the longstanding seniority rule which had been in effect for years.

This was done through an agreement known as the Southeastern Carriers Conference Agreement, under which the Brotherhood and the southeastern railroads agreed to an arrangement which practically liquidated the Negro firemen.

The agreement purportedly was in accord with the Railway Labor Act and had the approval of the Railway Mediation Board.

The first Negro firemen to get their cases in the United States Courts were TOM TUNSTALL, of Norfolk, and BESTER STEELE, of Alabama. They lost in the District and Circuit Courts, but won in the Supreme Court. The chief counsel for the firemen is CHARLES H. HOUSTON of Washington. MR. HOUSTON argued the case before the Supreme Court about two weeks ago.

This Supreme Court ruling [illegible] have [illegible] upon the final report of the [illegible] committee to which PRESIDENT ROOSEVELT referred the action of the Committee on Fair Employment Practice on the Southeastern Railroads in the fall of 1943. JUDGE W. P. STACY, of the North Carolina Supreme Court is chairman of this committee, which has had the matter under consideration since December of last year.

THE REAL MEANING OF THE RAIL RULING

Within the limits of "legal niceties," as termed by Justice Frank Murphy, the United States Supreme Court has cracked a tradition which has stood since emancipation in its decision of last week cracking down on the lily-white railroad brotherhoods.

In its broadest interpretations this ruling in effect upsets the long legal precedents which held that the 13th, 14th and 15th amendments did not connote any law violation in the Jim Crow "separate but equal" practices of the South.

The Supreme Court, it seems, has discovered that whatever is segregated and Jim Crowed cannot be equal in the true sense.

Its decision in the railroad brotherhood case, while not specifically stating as much, certainly has the implication that segregation per se means discrimination—and strange as it sometimes sounds, discrimination is against American law, as laid down in the 14th amendment which guarantees to all "the equal protection of the laws."

The high court held that a union must bargain on behalf of its Negro non-members, excluded because of their color, because not to represent them would deprive them of their rights and their livelihood.

Since unions, or any other organization or association covering a trade, profession or occupation, must represent Negroes hitherto excluded, the logic of the Supreme Court decision would be that these persons must be included into membership to be so represented.

The implications of such a stand by the Supreme Court are far-reaching into all phases of American life and especially at the present time hits those Jim Crow unions in the American labor movement who preach but do not practice democracy.

What is perhaps as remarkable as the actual Supreme Court decision was the brilliant concurring opinion written by Justice Murphy whose sharp denunciation of American racism will stand as a classic legal document for many years.

In it he does not accept the isolation of the railroad brotherhood case from the true significance it has in world affairs. He sees in the racial practices of the union the virulent threat of fascism and declares it the obligation of the court to "expose and condemn it."

When Justice Murphy declared that "a sound democracy cannot allow such discrimination to go unchallenged," he raised the entire question of the place of racial prejudice in the fabric of American democracy not as an imposition on Negroes but a genuine threat to white Americans too.

The historic stand of the highest tribunal of the land deserves careful study to guarantee the fullest sequel to its judicial connotations. It opens the way for striking new powerful blows against Jim Crow in American life.

Supreme Court Sustains L. & N. Negro Fireman

Washington, Dec. 18 (AP)—The Brotherhood of Locomotive Firemen and Enginemen was told by the Supreme Court today it must represent nonmember Negro firemen without race discrimination.

In unanimous opinions by Chief Justice Stone, the court ruled that the Railway Labor Act requires an exclusive bargaining agent for any craft or class to provide such representation.

In another case the court split 5 to 4 in upholding action of the National Labor Relations Board in setting aside its certification of an independent union as a bargaining agent.

43 Workers Re-instated.

In this case, wherein the Wallace Corporation of Richwood, W. Va., was ordered to reinstate 43 C.I.O. workers with back pay, the minority declared the decision raised an obstacle to "all future bargaining for closed shops."

Two Negro firemen were principles in the railway ruling. Bestor William Steele, working on the Louisville & Nashville Railroad, said he and other Negro firemen were discriminated against by the company and the brotherhood. He cited an agreement between the union and 21 southeastern railroads restricting use of Negro firemen. The union also excludes them from its membership.

Workers Must Be Represented.

Tom Tunstall, who complained he was forced from his job and succeeded by a white man, also cited the agreement and sued the brotherhood for damages and the Norfolk Southern Railway for reinstatement.

The brotherhood contended that the agreement with the companies was to make railroad operation more efficient and provide competent railroad men.

The court said the law does not deny a union the right to determine its membership but, in cases where it is the exclusive bargaining agent, it must represent nonunion workers "without hostile discrimination."

In a vigorous concurring opinion, in the Steele case, Justice Murphy declared the case called for settlement of a constitutional question.

"The economic discrimination against Negroes practiced by the brotherhood and the railroad under color of congressional authority raises a grave constitutional issue that should be squarely faced," Murphy asserted.

railroad brotherhood. The Railroad Brotherhood of Locomotive Firemen and Enginemen was told that it must represent non-member Negro firemen (who are excluded by the group) without race discrimination.

Two firemen who had suffered from discrimination by the union were the principals in the hearing. Bestor William Steele, a worker on the Louisville & Nashville Railroad, said he and other Negro firemen were discriminated against by both the union and the company. Brought in as evidence by him was the citation of an agreement between the union and 21 southeastern railroads which restricted the use of Negro firemen.

The other complainant, Tom Turnstall, said he had been forced from his job, and replaced by a white man. Also citing the agreement between the roads and the brotherhood, he sued the union for damages and the Norfolk Southern Railway for reinstatement.

Although the brotherhood held that the agreement with the companies was to aid in more efficient operation of the roads and more competent workers their argument was lost. The court pointed out that the law does not deny a union the right to determine its membership (in this case all white) but, in cases such as this where it is the exclusive bargaining agent, it must represent non-union workers "without hostile discrimination."

In commenting on the case and the decision of the court, Justice Frank Murphy stated in part: "The utter disregard for the dignity and the well-being of colored citizens shown by this record is so pronounced as to demand the invocation of constitutional condemnation."

Supreme Court Blasts Union's Bias Policies

Jim Crow Brotherhood Loses Cases Brought Before Highest Court

WASHINGTON — The Supreme Court handed down a decision Tuesday outlawing discrimination in the

A Blow Against Jimcrow

THE U. S. Supreme Court decision upholding the right of full representation to Negro members in railroad unions, together with the concurring opinion of Justice Frank Murphy, is a history making blow for equality.

It is unfortunate that it was necessary for such a decision to be made against labor unions. The majority of the white membership of unions favor equal rights and full trade union status for Negro workers, but certain types of labor leaders permit the policy of Jimcrow and segregation to obtain in trade unions. The decision, coming less than a month after the AFL convention, is a sad commentary on the attempt of that body to exempt unions from FEPC rulings. It is a rebuke to the officialdom of the AFL. It is a rebuke also to railroad employers who refuse to give full job rights to Negroes.

It is to be hoped that the railroad unions as well as the boilermakers and other similar unions in the AFL, will realize the full significance of this decision and will take measures to eliminate all bars against Negroes. It is a rebuke to railroad employers who refuse to give full job rights to Negroes, including bars against advancement into leadership.

14-1944

U. S. Supreme Court

Atlantans Express Intention Of Voting In Demo Primary July 4

Daily World Atlanta, Ga.

4-5-44

Hail Decision In Texas Ballot Case

Intention to participate in the Georgia democratic primaries scheduled to be held significantly on Independence Day, July 4, was voiced Tuesday by Negro Atlantans from widely separated walks of life, in light of the United States Supreme Court decision in the Texas white primary case.

"I believe the decision of the Supreme Court gives me a right to vote in our primaries and I intend to vote on July 4," asserted Editor C. A. Scott of the Atlanta Daily WORLD, who added, "I believe in the leadership of President Roosevelt and as a man I desire to vote in his party. In this coming election I think it is the right and duty of all citizens to qualify and take an honest stand in the election that will, perhaps, be the most important in the history of our country."

Complete texts of the several statements on this vitally important issue follow:

C. A. Scott 4-5-44

Editor and General Manager of Atlanta Daily World, Memphis and Birmingham Worlds.

"The supreme court decesion in the Texas white primary case is clean-cut and simply means that it is illegal for political parties to bar membership and participation in the primaries solely on a basis of race. It means, as I understand the wording of the decision, that Negroes cannot be legally excluded from our Georgia primaries. Because we can meet all the requirements of the Democratic party except that of color.

"I consider the decesion the best thing that could happen for the long run welfare of the south. Negroes, for years, have been aware of the fact that participation in the primaries is vital to their interest because only the men selected in the primaries actually hold office and make the laws by which we are forced to abide. Denial of this right to vote in the primaries then is actually denial of a person's basic American right to exercise the right of the franchise.

"Moreover, exclusion of the Negroes from the primaries makes it profitable in some instances for agitation of the race question. This creates ill-will and disunity and increases interracial tension.

"For the past twelve years, the majority of Negro voters in both North and South, have supported the Democratic party. They believe in the leadership of President Roosevelt, who has done more for them than any president since Abraham Lincoln. The recent Supreme Court decision may well be considered our Second Emancipation. 4-5-44

"I hope the white people in power in the South will accept the spirit and meaning of the decision because I think it will bolster the morale of Negroes in armed services and will eventually eliminate race-baiters from the political scene and public office. Certainly all true believers in democracy and the stated war aims of our great Commander-in-chief should desire this result. The time has come when the white leaders in the South should show more confidence and trust in Negroes who are still willing to follow their leadership. These two groups must unite now and form a great majority that the forces of fascism and racial intolerance will not dare challenge.

"I believe the decision of the Supreme Court gives me a right to vote in our primaries and I intend to vote on July 4. I believe in the leadership of President Roosevelt and as a man I desire to vote in his party. I further believe there are thousands of other Negroes in the south who share this view. In this coming election I think it is the right and duty of all citizens to qualify and take an honest stand in the election that will, perhaps, be the most important in the history of our country. 4-5-44

F. B. Washington

Director, Atlanta University School of Social Work

"Now that the Supreme Court has decided that every man including the Negro has a right to vote in a primary in a state where officeholders are chosen through the primary, I intend to exercise my franchise by voting in the primary July 4."

Rev. M. L. King

Pastor, Ebenezer Baptist Church, in speaking before the Atlanta Baptist Ministers Conference, Tuesday.

"I will attempt to vote in the primary on July 4. The liberal ruling of the court should be credited to President Roosevelt's administration and Negroes should give the President their support."

C. L. Harper

President, Atlanta Branch NAACP; Executive Secretary, Georgia Teachers and Educational Association.

"The Constitution is the basic law of the land when any state law, or other law or custom, conflicts with the Constitution it is not valid. The United States Supreme Court has ruled that the white primary is in conflict with the Constitution and therefore is illegal. 4-5-44

"Our security is built on respect for law. As long as a state remains a part of the United States and enjoys the benefits of such a union there is nothing for it to do but abide by the laws of the land. If communities or groups are permitted to defy our fundamental laws, then we are headed for choas.

"Virginia, North Carolina and Tennessee seemed to have benefitted rather than suffered from not excluding the Negro from their primaries. Negroes are by no means happy over many laws that restrict them, but the Negro leaders almost without exception urge the masses of the race to abide by these laws although they may think them unjust.

"This law, the Fifteenth Amendment—is in accord with both democratic and Christian principles. Will the white leaders of the South—leaders in church and state—rise to the occasion and lead the white masses to keep the law which men wrote or will these leaders direct their people to defy and evade the law? That is the real challenge to some of our Southern states and their leaders.

"The National Association for the Advancement of Colored People has labored consistently for the abolishment of lynching, the poll tax, the white primary, economic and educational inequalities of Negroes. The South, especially, has suffered from these ills. Lynching has almost been wiped out and the whites are as happy over the removal of this evil as are the Negroes. 4-5-44

"The National Association comes forward again to do away with an injustice—the white primary—which not only is unfair to Negroes, but a hindrance to white as well.

"The conscience of our white neighbors will be greatly eased when they grant the minority group in their midst the same rights that our soldiers are fighting to maintain in distant lands."

Dr. R. E. Clement

President, Atlanta University

"As a Southern Negro who has voted the Democratic ticket in three different Southern states and voted in the Democratic primaries of two of these states, I am gratified at the recent decision of the United States Supreme Court in the Texas primary case. I must confess, however, that the decision was not at all surprising to me. It appears to me every clear-thinking, fair citizen of a democracy which has an opportunity for world leadership and which at the same time professes to be a great Christian nation will agree that that nation could not do other than to give every qualified citizen regardless of race, color, creed or sex the right to determine his leaders in government. It is to be sincerely hoped that the decision will be fully accepted by all honest people." 4-5-44

Dr. Willis J. King

President, Gammon Theological Seminary:

"The Supreme Court decision giving Negroes the right to vote in the Democratic primaries in the South amount to a Second Emancipation. It means that Negroes are on the way to complete citizenship. This is as it should be; the democracy we fight for in Europe and Asia ought to be available in America."

Dr. F. D. Patterson

President, Tuskegee Institute

"The decision in the Texas Primary case was a great victory for American democracy.".

J. A. Batts

Manager, Atlanta branch office, Afro-American Life Insurance Company:

"As a native Virginian, a state from which we have never been barred from voting in the Democratic primaries, I can very deeply appreciate the United States Supreme Court's decison. This ruling is fair, not difficult to interpret and will revolutionize the political setup in this state. I shall be one of the first to exercise my constitutional rights by voting in the next Georgia Democratic primary, July 4." 4-5-44

Dr. E. G. Bowden

President, 27 Club, Atlanta:

"It's a far-reaching decision that will affect most Southern states Every man should be able to vote in primaries without regard to color. In view of the ruling I intend to exercise the right to vote and plan to do so in the primary on July 4."

The Right to Vote

New York Times, N.Y.

Dr. Lonnie E. Smith is a 40-year-old Negro dentist of Houston, Tex. His chief interests are his family, his practice, church work and the affairs of the local branch (12,000 members) of the National Association for the Advancement of Colored People. He is well known in a Negro community that has its own churches, hospitals, schools, clubs and newspapers. His fellow-professional men in this community have degrees from such universities as Harvard, Columbia, Chicago and Northwestern. Some of these men, Dr. Smith among them, regularly pay poll taxes and vote in general elections. But none of them has ever voted in a Democratic primary, where the real contests take place, for the Democratic party of Texas has ruled that Negroes are not eligible for membership. 4-5-44

Last week Dr. Smith's name was spread far beyond Houston, when the United States Supreme Court held that a State cannot write Dr. Smith's rights under the Fifteenth Amendment ("The right of the citizens of the United States to vote shall not

4-9-44

Background of Conflict

...interfere with the membership rules ...a private organization, in that in... ...ance the Democratic party. Last ...eek, by an eight-to-one decision, the ...urt held that a State cannot write ...s electoral process in a form which ...permits a private organization to prac...

The decision marked a significant ...step in the Negro's long struggle to ...

...States or by any State on account of ...race, color or previous condition of ...servitude") had been infringed by the ...State of Texas. By this decision the ...court reversed itself, for nine years ...it had ruled that it had no right ...be denied or abridged by the United ...account of

obtain the right to vote in the South. White supremacy in Southern politics was re-established after the Civil War in the 1870-80 decade of violence and intimidation. Thereafter literacy requirements were set up to bar the mass of Negroes from the polls, while the so-called "Grandfather clauses"—under which voting privileges were automatically granted those who were qualified or whose ancestors were qualified to vote in some pre-Civil War year—allowed the mass of whites to escape the literacy provisions. These clauses were declared unconstitutional in 1915. Since then the South has relied in part on poll tax laws to maintain white political supremacy and on the white membership party rules that have now been declared unconstitutional.

The decision, many Washington observers thought, would have important political repercussions. Immediately they studied its possible effect on the Presidential election. The present Court, seven of whose nine members were appointed by President Roosevelt, has been called an Administration court. Some Southern Congressmen, angered by the decision, suggested that the Solid South, without whose aid the President might find it difficult to win a fourth term, might retaliate at the polls. There was also the possibility that Negro voters in crucial Northern States, who in recent elections had been trending away from the Administration, might now swing back.

Jury Acquits Defendants in Dailey Case

Constitution - Atlanta, Ga.
4-6-44

DeKalb County Police Chief Joseph T. Dailey and three policemen on his staff were acquitted by a federal court jury here of charges of violating the civil liberties of Naomi Reid and Raymond Rouser, Negroes arrested in DeKalb county last October.

Roy T. Smith, foreman of the jury, returned the verdict of acquittal to the court after three hours of deliberation by the jury on testimony and evidence presented in the case during three weeks of trial.

CHARGES

Chief Dailey, together with Lieutenant Ben Hensler and Patrolmen Charles L. Visscher and Jefferson Coyce Holbrook Jr., were charged in informations filed by District Attorney M. Neil Andrews with beating and maltreating the two Negroes to obtain their confession to burglarizing the Ritz Supper club last October.

[illegible] the jury shortly yesterday after ar[illegible] and

drews told the jury in the argument that he was not finished in this case but would continue to prosecute violators of civil rights statutes. 4-8-44

COURT'S INSTRUCTIONS

Judge E. Marvin Underwood instructed the jury to consider only the charges against the officers of beating and maltreating prisoners to obtain confesssions and withdrew from their consideration any charges as to the officers having denied prisoners right to consult with counsel.

The information against Chief Dailey, Patrolmen Holbrook and Visscher charging they beat Rouser, also charged they denied the Negroes the right to consult with their counsel, William Schley Howard, Atlanta attorney, who testified in the case.

District Attorney Andrews was assisted in the case by Raymond W. Martin, assistant United States attorney.

The officers were represented by Attorneys Clint Hager, J. Frank Kemp, Young Fraser and Paul Carpenter.

Florida Loses Peonage Fight

PM, New York, N.Y.

PM's Bureau 4-11-44

WASHINGTON, Apr. 11.—For the second time in two weeks, the Supreme Court has spanked a Southern state for depriving Negroes of their constitutional rights.

Last week it was Texas for permitting primaries in which Negroes were not allowed to vote. This week it was Florida for persistently enacting labor-fraud laws in violation of the anti-slavery amendment to the Constitution.

In a 7-2 decision, the court yesterday cancelled a 60-day prison sentence imposed on an illiterate Negro worker who failed to work off a $5 debt. The majority opinion, handed down by Justice Robert H. Jackson, held that the state law under which Emanuel Pollock was sentenced was a violation of both the 13th Amendment and the anti-peonage law enacted under that authority. 4-11-44

Fined $20 per $1

The law the court held invalid makes it prima facie evidence of fraud for a worker to obtain money in advance for work, then fail to perform the work. In Pollock's case the court held that the presumption of fraud in the law induced a plea of guilt under which the worker was "fined $20 for each dollar of his debt, and in default of payment was required to atone for it by serving time at the rate of less than nine cents per day."

"Of course," the court's opinion said, "the function of the prima facie evidence section is to make it possible to conflict where proof of guilt is lacking. The Florida Legislature has enacted and twice re-enacted it since we so held. We cannot assume it was doing an idle thing. Since the presumption was known to be unconstitutional and of no use in a contested case, the only explanation we can find for its persistent appearance in the statute is its extra-legal coercive effect in suppressing defenses."

Peonage Attacked

Pounding hard at such peonage laws, the court said that "where peonage has existed in the United States it has done so chiefly by virtue of laws like the statute in question." 4-11-44

"Congress," it said, "has put it beyond debate that no indebtedness warrants a suspension of the right to be free from compulsory service. This Congressional policy means that no State can make the quitting of work any component of a crime, or make criminal sanctions available for holding unwilling persons to labor."

A dissenting opinion was handed down by Justice Stanley Reed, who delivered last week's majority opinion. With Chief Justice Harlan Stone agreeing, Reed argued that "no allegations or proof appear in the record that the Florida statute was used or applied to promote peonage or involuntary servitude of petitioner or to coerce his plea of guilty.

THE UPPER SOUTH

New York Times, N.Y.

Seaboard Area Takes Calmly Question of Negro Voter

4-9-44

By VIRGINIUS DABNEY

RICHMOND, Va., April 8—The upper South is much less disturbed than the deep South by the United States Supreme Court's ruling that Negroes must be admitted to Democratic primaries. Virginia, North Carolina, Kentucky and Tennessee have admitted them for years, and have had no interracial disturbances or other complications.

North Carolina, which has neither the white primary nor the poll tax but has a population 27 per cent colored, is an example of how relatively liberal handling of the Negro voter operates in practice. The registration law there requires any registrant "to read or write" any section of the Constitution, and while it undoubtedly is used to exclude some qualified Negroes, the system is much fairer than that in some Southern States.

A Georgia editor has been quoted as saying that the Supreme Court's decision will be largely meaningless, "so long as the registration boards can ask a prospective voter to recite the Declaration of Independence, and then can throw him out for omitting the commas." 4-9-44

It is certain that many Negroes will be deprived of the franchise in some States despite the court's decision, by means of educational or property qualifications, or the poll tax, none of which has been pronounced unconstitutional. South Carolina politicians hope that they by-passed the whole problem by means of an act of the 1943 Legislature which instructed the solidly Democratic lawmaking body to eliminate all party rules from the State code.

Only twenty-six business and professional men showed up in Richmond for the start in Virginia of the Byrd-for-President boom by John U. Barr, and The Norfolk Virginian-Pilot commented that all the New Orleans rope manufacturer had offered the Senator was "enough rope to hang himself with." . . . No less than 57 per cent of gasoline ration coupons in South Carolina have been indicated in a survey to be counterfeit.

TEXAS DEMOCRATS FIGHT NEGRO RULING

New York Times N.Y.

Ex-Governor Moody Will Join in Plea for High Court Rehearing

4-7-44

HOUSTON, Tex., April 6 (AP)—Former Gov. Dan Moody and Wright Morrow, representing the Texas Democratic Executive Committee, will ask the United States Supreme Court for a rehearing on its decision that Negroes can vote in Texas Democratic primaries, the committee chairman, George A. Butler, said today.

Mr. Moody would go to Washington to argue the motion in behalf of the Democratic party of Texas, Mr. Butler told a press conference.

He announced the appointment of a committee of Texas lawyers to study the opinion and the Texas election laws and make recommendations to the committee on what course of action to pursue to regulate the membership of the Democratic party in Texas.

Mr. Butler asserted that the opinion was written to cover not only the primary election laws in Texas but to regulate party membership in all Southern States.

"The opinion may be so far-reaching as to make it a criminal offense under the civil rights bill, which was adopted by Congress during the reconstruction period, to prevent any citizen from participation in any primary election," Mr. Butler said in a statement.

"Therefore it seems to me that this is an effort on the part of the Supreme Court to anticipate and forestall any legislative or executive committee action to determine who may be members of a political party. 4-7-44

"The constitutionality of the procedure of the Democratic party which permits it to select its own membership was settled years ago in the case of Grovey versus Townsend, as pointed out by Mr. Justice Roberts.

"Thus it is difficult to believe that this decision was brought about through any earnest desire of the court to apply and uphold the Constitution. You are compelled to look elsewhere for the motivating reasons behind the decision and the decision as so rendered by the majority of the court, does indeed, seem to be for other purposes and timely, too."

THE DEEP SOUTH

New York Times, N.Y.

Court Decision in Texas Case Stirs Up States' Rights

4-9-44

By JAMES E. CROWN

NEW ORLEANS, April 8—From Georgia to Texas, in virtually every Southern State, demands are growing for wider application of the States' rights doctrine. This is because of the decision of the United States Supreme Court which holds that Negroes cannot be barred from Texas primary elections.

The Registrar of Voters is the judge of whether or not a citizen has properly interpreted any section of the Constitution which he suggests. In this way, only about 3,000 Negroes out of a population of several hundred thousand have qualified to vote in Louisiana.

In Mississippi only a handful of Negroes vote, because of education tests. These two States and others in the South insist that they have the right to pass on the qualifications of voters. In all parts of the South an increasing number of educationally qualified Negroes is voting each year. 4-9-44

The effect of the Supreme Court ruling in the Texas case on the next national election is a matter of considerable speculation. It is argued by many that seven of the Supreme Court justices named by Mr. Roosevelt voted to upset the primary election laws of Texas. Some declare that this will have the effect of causing opposition to the President if he seeks a fourth term.

The case of Mrs. Victor Dusang of New Orleans and her nine children is attracting wide attention. Her husband is in the Army. She and her nine children have been evicted from their home. Now they cannot find a place to live. State and Federal housing authorities have apparently been unable to provide for them. A strong movement has been started here to revise the rules of the housing authorities. . . . In Louisiana, and

New Orleans in particular, hundreds of dealers in poultry, fish and veal have closed their shops in raids on cabarets involved in night clubs. They were placed with the black market. The OPA is calling special meetings to consider the problem. . . . Vice raids are having a kickback in New Orleans. Several score young women, some of them married saying that they cannot compete prostitutes.

14-1944

U. S. Supreme Court

High Court Holds to Stand Negroes Can Vote In Texas

Courier-Journal. Louisville, Ky

5-9-44

From Wire Dispatches.

Washington, May 8.—The Supreme Court refused today to budge from its stand that Negroes have a right to vote in Texas Democratic primary elections.

Without comment, the court declined to reconsider its 8 to 1 decision of April 3 that a man cannot be barred from participating in the selection of "his rulers" because of his color.

Attorney General Grover Sellers of Texas and two Houston election judges who were involved in the original case requested a rehearing on the ruling which upset previous court decisions on the issue.

Party Called State Agent.

The court based its April 3 finding on the ground that the Democratic Party in Texas is required to follow procedure laid down by State law in selecting nominees and, therefore, is an agent of the State.

Sellers argued that party officials conduct the elections at party expense and that the State does not have the right to say anything about voters' qualifications.

The court also cleared the way for consideration of the problem of Japanese-American citizens who were removed from the west coast area and sent to detention camps under military orders shortly after the outbreak of the war. It agreed to hear the appeal of Mitsuye Endo of Sacramento, Calif., for release from a War Relocation Authority camp in Modoc County, California.

Will Hear Case In Fall.

Arguments on her appeal will be heard next fall, along with another case challenging the constitutionality of the evacuation orders under which the Japanese-Americans were removed from the coast. The latter case was filed by Fred Toyosaburo Korematsu, taken from San Leandro, Calif., to a W.R.A. center at Topaz, Utah.

In other actions today, the court: 5-9-44

Held 7 to 2 that States may require out-of-state corporations to obtain certificates of authority to do business in the state without infringing upon the Interstate Commerce Act or other federal laws. The decision upheld a ruling of the Minnesota Supreme Court that the Union Brokerage Company of Portal, N. D., did not have the right to maintain a suit in Minnesota courts because it had not obtained such a certificate in compliance with the Minnesota Foreign Corporations Act.

Will Adjourn May 29.

Upheld unanimously a special master's rejection of claims by Kansas to 2,500 acres in the Forbes Bend section of the Missouri River between Doniphan County, Kansas, and Holt County, Missouri.

The court, announcing it would hand down decisions on each of the next three Mondays and then adjourn its 1943-44 term on May 29, agreed to review lower-court decisions in these cases of general interest:

1. A southern New York Federal District Court decision in the Government's antitrust suit against the Associated Press, holding that the A.P. must modify its by-laws with respect to admission of new members. The news agency contended in an appeal filed last month that the New York court's judgment holding it guilty of violating antitrust laws would subject it to the supervision of the Justice Department and the federal courts in such a manner as to be "wholly incompatible with freedom of the press."

Telegraph Case Pending.

2. An appeal by the Western Union Telegraph Company from a lower court decision enjoining the firm from employing messengers under 16 years of age on the ground the company is covered by child-labor provisions of the wage-hour law. The firm, calling attention to the importance of its telegraphic service to the war, said "present delays will be accentuated and prolonged" if it is forbidden to fill gaps in the ranks of messengers with younger boys. 5-9-44

3. An Interstate Commerce Commission order requiring fifty-four railroads to interchange freight cars with Seatrain Lines, Inc., Hoboken, N. J., oceangoing carrier. The railroads held that the order was beyond the I.C.C.'s scope of authority.

U. S. COURT FIRM ON TEXAS STAND

Age-Herald-Birm.

5-9-44 Also

BY EDWARD H. HIGGS

WASHINGTON, May 8—(AP)—The Supreme Court Monday refused to budge from its stand that Negroes have a right to vote in Texas Democratic primary elections.

Without comment, the court declined to reconsider its 8 to 1 decision of April 3 that a man cannot be barred from participating in the selection of "his rulers" because of his color.

Atty. Gen. Grover Sellers, of Texas, and two Houston election judges who were involved in the original case requested a rehearing on the ruling which upset previous court decisions on the issue.

The court based its April 3 finding on the ground that the Democratic party in Texas is required to follow procedure laid down by state law in selecting nominees and, therefore, is an agent of the state.

Sellers argued party officials conduct the elections at party expense and that the state does not have the right to say anything about voter qualifications. 5-9-44

The Negro and the Vote.

World-Telegram-New York, N.Y.

The Supreme Court, reversing by 8 to 1 a decision of nine years ago, now holds that the Democratic party of Texas cannot bar Negroes, if otherwise qualified, from voting in primaries. 4-4-44

In the earlier decision, now abandoned over the lone but biting dissent of Justice Roberts, the then conservative court had ruled (in Grovey vs. Townsend) that to deny a vote in a primary was a mere refusal of party membership with which "the state need have no concern."

In other words, the Democratic party in Texas was in the nature of a private club, able like any club to limit its membership as it saw fit.

Now the 15th Amendment (1870) states: "The right of the citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color or previous condition of servitude." 4-4-44

The amendment doesn't mention primaries. But, as everybody knows, in Texas as in other Southern states the primary is usually the whole shooting match. The election is only a pro-forma ratification. Thus, exclusion from the primaries is actually exclusion from an effective vote.

Nevertheless, through various expedients—including the one sustained until yesterday by the Supreme Court—this exclusion has been successfully maintained.

The new ruling is a milestone in the long and arduous struggle to obtain for the Negro the civil rights accorded to him by the Constitution. He should exercise great vigilance—and temperateness—lest new expedients be devised to thwart this newly-won franchise.

Court Decision No Impasse

Constitution - Atlanta, Ga.

It is not possible, as considerable wishful thinking would indicate, to ignore a decision by the Supreme Court of the United States. 4-5-44

It is well, therefore, to examine closely the meaning of its verdict that, in states where there is no opposition party, and where a primary nomination to a federal office is tantamount to election, a man may not be barred from that primary because of race, creed or color.

It is interesting to note that the decision does not apply, by any means, to the entire south.

North Carolina long has had no poll tax and no white primary. Negroes who are qualified under the state laws are, and have been, allowed to vote in the state Democratic primaries. North Carolina's Negro population is 981,298.

Virginia does not bar Negroes from her Democratic primary, but does insist they meet the same voting qualifications as other persons and that they certify themselves to be Democrats. Virginia's Negro population is 661,449.

Tennessee has allowed Negroes to vote in the Democratic primary for a great many years, particularly in the cities. Kentucky has followed the same procedure.

In every case all voters must qualify under state and party primary rules as to registration and, in states where the poll tax is required, that tax must be paid.

The supreme court did not rule against any of the requirements for voting except to say that one may not be deprived of the vote because of race, creed or color.

It applies with particular force to Mississippi and to certain areas of Alabama and Georgia where there are large farms owned by a few white men, thousands of Negroes being employed on the land as laborers and tenants, many of them transient or semi-migratory.

Obviously government in these areas is not to be turned over to these Negroes. 4-5-44

It is possible that if the states most affected will examine their codes, they will find, as is the case in North Carolina and Virginia, for example, there exist literacy tests and other voting requirements which are not affected by the supreme court decision.

Georgia, for instance, has a very strict law as to voting qualifications which has been in the state code for a quarter century or more. It is already there, and it is similar to the law in North Carolina and Virginia.

While the decision is a shock to the south and will be generally regretted as coming at this time, it has been made and it cannot be ignored.

The states most affected must study its effect; must examine their own codes; may need to call special sessions to set up adequate and fair regulations within the meaning of the court's decision. But above all, it must be done without hysteria or violence.

It is possible, in view of the facts and the conditions in other southern states where there is no white primary, that the problem is not as serious as first appears.

It can be solved fairly and within the meaning of the decision. It must be solved without precipitating a breach in our national solidarity.

Group Can't Pick Own Labor Representative

Tribune-Washington, D.C.
1-15-44

By a vote of 8 to 1, the U.S. Supreme Court on Monday refused to review a decision which "deprives" forty-five Red Caps of the right to select their own representatives for collective bargaining and sanctions as their agent a white union which bars them from membership because of race.

The action left in effects a decision by the National Mediation Board that the porters were not a craft or class of employees and could not select their own representatives. The high tribunal had sustained this ruling on December 6, when without filing a written opinion, it cited a previous ruling that Federal courts should not interfere with Mediation Board action in union jurisdictional cases.

Reconsideration was sought o the December 6 decision whicl reversed a ruling by the U. S Court of Appeals for the Distric of Columbia that the forty-five porters of the St. Paul (Minn.) Union Depot Company, who were excluded from one labor organization because they were Negroes, had a right to select another union to represent them.

The Brotherhood of Railway and Steamship Clerks, which bars Negroes, claimed the right to represent the porters in labor negotiations because of a collective bargaining contract it entered into in 1921 included the Red Caps.

Now "Voiceless Minority"

Filing the petition for reconsideration was the United Transport Service Employees of America, which told the court that it had been chosen by the porters as their agent. 1-15-44

It further contended that the Mediation Board has relegated the porters to a voiceless minority in a craft or class in which they are not recognized and designated for them as a bargaining agent a brotherhood to which they cannot belong and in which they have absolutely no voice, also that they were left in a hopeless plight in the interstate railway labor field, if the interpretation stands. 1-15-44

The sole dissenter was Justice Wiley Rutledge, of Cloverport, Ky., who was "of opinion that the petition should be granted, the case restored to the docket and set for argument."

Florida Court Reversed In Peonage Case

Journal+Guide
Norfolk, Va.
1-15-44

Highest Tribunal Interprets Federal Statute Of 1867

WASHINGTON, D. C.—By an 8-to-1 decision, the United States Supreme Court on Monday Jan. 3 reversed the judgment of the United States Court for the northern district of Florida dismissing an indictment against Charles A. Gaskins, white, for arresting a colored man named Johnson to return him to a state of peonage.

Justice Owen J. Roberts delivered the opinion. Justice Frank Murphy dissented.

The majority opinion held that the District Court erred in holding that the post-Civil War statute abolishing and prohibiting peonage imposes no penalty for an arrest to compel the performance of labor or service unless the person arrested actually performed labor.

Gaskins was accused in the indictment of arresting Johnson, upon a claim that Johnson was indebted to him, and with intent to cause Johnson to perform labor in satisfaction of the debt.

FURTHER ALLEGATIONS

The indictment further alleged that Gaskins forcibly arrested Johnson against his will and transported him from one place to another in Florida. There was no allegation that Johnson rendered any labor or service in consequence of his arrest.

Section 1 of the Act of March 2, 1867, Justice Roberts said, "makes arrest of a person with intent to place him in a state of peonage a separate and independent offense. It penalizes 'whoever holds, arrests, returns, or causes to be held, arrested, or returned . . . any person to a condition of peonage.' The language is inartistic. The appropriate qualifying proposition for the word 'holds' is 'in.' An accurate qualifying phrase for the verb 'arrests' would be 'to place in or return to' peonage. 1-15-44

INTENT OF ACT

"But the compactness of phrasing and the lack of strict grammatical construction does not obscure the intent of the Act. Years ago this Court indicated that the disjunctive phrasing imports that each of the acts,—holding, arresting, or returning,—may be the subject of indictment and punishment. We think that view is sound apart from any consideration of the legislative history of the enactment. But when viewed in its setting no doubt of the purpose of the statute remains.

PROHIBITS PEONAGE

"The Act of 1867 was passed as the result of agitation in Congress for further legislation because of the use of federal troops to arrest persons who had escaped from a condition of peonage. The first section abolished and prohibited peonage and made certain practices in connection therewith criminal. The second section imposed a duty on all in the military and civil service to aid in the enforcement of the first, and provided that if any officer or other person in the miliarty service should offend against the Act's provisions he should, upon conviction by a court martial, be honorably dismissed from the service.

"It is plain that arrest for the purpose of placing a person in or returning him to a condition of peonage was one of the evils to be suppressed."

In dissenting, Justice Murphy said he doubted whether an arrest not followed by actual peonage "clearly and unmistakably falls" within the prohibition of section 1 of the Act. 1-15-44

"An in order to reach the opposite conclusion," he said, "this Court labels the statutory language 'inartistic' and as lacking in 'strict grammatical construction.' It then proceeds to rewrite the statute, in conformity with what it conceives to have been the original intention of Congress, so as to penalize 'whoever . . . arrests . . . any person for the purpose of placing him in a condition of peonage.' I cannot assent to this judicial revision of a criminal law. Congress alone has power to amend or clarify the criminal sanctions of a statute."

High court confirms conviction

Tribune
Los Angeles, Calif.
6-19-44

WASHINGTON—The U. S. Supreme Court on June 5 affirmed by a six to three decision the conviction in Oklahoma of W. D. Lyons, a Negro, on a charge of triple murder. The appeal to the high court was taken after the Oklahoma Criminal Court of Appeals sustained the Negro farmhand's conviction in a lower court. The National Association for the Advancement of Colored People conducted the defense with assistance of the American Civil Liberties Union. 6-19-44

The Union's brief to the Supreme Court, signed by Gomer Smith, of Oklohoma City, A. S. Cutler and Morris L. Ernst, of New York City, charged that Lyons' conviction had been obtained through a confession forced from him by beatings, and that a previous confession obtained in a similar manner had been denied as evidence by the trial judge who found "that the defendant may have been frightened into making the confession." The union has asked the Supreme Court to "place its stamp of stern disapproval upon such strategem used by public officials to ensnare the ignorant and the helpless."

NEGRO WINS POINT IN ALBANY ASSAULT

Times-New York, N.Y.

Justice Murray Holds Jones Has Right to Know Names of Troopers Present

6-21-44

Special to The New York Times.

ALBANY, June 20 — Supreme Court Justice William H. Murray held today that John (Sonny) Jones, Negro of this city, was entitled to know the identity of State troopers and other persons who were on the twenty-ninth floor of the State Office Building, Feb. 25, the day on which he says he was beaten and suspended, head-down, from a window. The Attorney General is expected to appeal.

Jones was being questioned in connection with the State investigation of alleged vote frauds in Albany at the time of the assault is supposed to have occurred. George P. Monaghan, special prosecutor in the grand jury investigation of Albany County, has his offices on the twenty-ninth floor of the State Office Building.

Justice Murray denied a motion by the Atorney General to vacate a subpoena issued by Police Justice Edward Kampf directing John A. Gaffney, superintendent of State police, to produce the names of troopers who were present in the investigation offices on Feb. 25.

"The allegations made by Mr. Jones," wrote Justice Murray, "are grave and most serious in character and nature. It is axiomatic that lawless enforcement of the law must cease in fact as well as in theory, or anarchy ensue. Jones is either a monumental liar, or he is truthful." 6-21-44

Justice Murray added that if the assault on Jones "in a building in the shadow of the Capitol" by State troopers is true, "such dastardly criminal offense demands the fullest publicity and the perpetrators of the crime severe punishment."

He added that Superintendent Gaffney should welcome every opportunity to vindicate the "honor and reputation of the State police who are charged with the vicious crime.

Vernon's case had gone to the United States Supreme Court five times and he was last condemned to the electric chair on a second trial in Jefferson County Circuit Court.

Age-Herald-Birmingham, Ala.
Age-Herald

VERNON GETS STAY

MONTGOMERY, Ala., June 23—(AP)—Pending an appeal to the U. S. Supreme Court Friday granted Joe Vernon, Birmingham Negro under death sentence for murder, a stay of execution until next Nov. 3. The state court Thursday declined to review a previous decision in which Vernon's Jefferson County conviction was upheld, and set his execution for July 7. Notice of appeal to the U. S. tribunal was filed Friday by Walter Smith, Birmingham lawyer. 6-24-44

6-23-44

Supreme Court Changes Wordage of Ruling On Right of Texas Negroes to Vote

Times-New York, N.Y.
Special to The New York Times.

WASHINGTON, June 12 — Presumably because this is a democracy where "rulers" do not exist, the Supreme Court today changed its language in an 8-to-1 decision of April 3, prevenring Texas voters in the Democratic primaries.

Without explanation, and in a formal order, the court substituted a new phrase for the one originally written by Justice Stanley F. Reed.

As issued April 3, the opinion read:

"Under our Constitution, the great privilege of choosing rulers may not be denied a man by the State because of his color."

But today's order amended this to read:

"Under our Constitution, the great privilege of the ballot may not be denied a man by the State because of his color."

It was stated that Justice Owen after being convicted of a similar crime.

HIGH COURT REJECTS TWO MERCY PLEAS

Post—Birmingham, Ala.
By United Press.

MONTGOMERY, June 22—Two condemned murderers failed in efforts to escape punishment here Thursday.

The State Supreme Court refused to grant a rehearing to Joe Vernon, a Birmingham Negro sentenced to die July 7 for the murder of a filling station employe in 1937, and the State Pardon and Parole Board declined to free Walter Lambert, who was sent back to prison for a second murder after once being paroled

6-23-44

14-1944

U. S. Supreme Court

High Tribunal Says Negroes Can Vote In Texas Primaries

Advertiser-Montgomery, Ala

4-4-44

Precedent Breaking Decree Arouses The South

Old Fiat Falls

8 To 1 Vote Shatters 1935 Decision; Roberts Sore

WASHINGTON, April 3.—(AP)—The Supreme Court today upset a decision of nine years' standing and ruled that negroes have the right to vote in Texas Democratic primary elections, prompting Justice Roberts to protest that the tribunal's opinions are getting to be like a railroad ticket good only for one day in one train.

The eight-to-one decision, stating that "the great privilege of choosing his rulers may not be denied a man by the State because of his color," overturned the court's unanimous opinion in 1935 sustaining the exclusion of negroes from participation in a Texas Democratic primary.

The decision has far-reaching implications for the South, where success in a primary usually is tantamount to election, but whether it will lead to any great increase immediately in the number of negro voters is considered doubtful. The decision does not touch upon other barriers existing in various parts of the South, such as poll taxes, educational tests, etc.

Negro Was Denied Vote

Specifically involved in today's litigation was Lonnie E. Smith, a negro who contended he was denied the right to vote in a 1940 primary by Houston, Texas, election judges. There are an estimated 571,000 negroes of voting age in Texas.

Of the present members of the court, only Chief Justice Stone and Justice Roberts were on the bench at the time of the earlier decision.

Justice Roberts, sole dissenter in today's decision, protested that the court's present policy "indicates an intolerance" for the conscientious and deliberte opinions of former justices and "involves an assumption that knowledge and wisdom reside in us which was denied to our predecessors." 4-4-44

Amplifying his complaint that today's ruling tends "to bring adjudications of this tribunal into the same class as a restricted railroad ticket, good for this day and train only," Roberts said:

"I have no assurance in view of current decisions that the opinion. . . . may not shortly be repudiated and overruled by justices who deem they have new light on the subject."

The court's earlier decision was based on the ground that negroes were excluded from the primary because a Democratic party convention had refused them party membership, and that this action by the party did not represent an action by the State.

Kentuckian Wrote Decree

Justice Reed's majority opinion today, however, said the Democratic party in Texas is required to follow State legislative procedure in selecting party nominees in primary elections and thus the party becomes a State agency.

Asserting that the federal constitution gives citizens the right to choose elected officials without restriction by any state because of race, Justice Reed declared:

"This grant to the people of the opportunity for choice is not to be nullified by a state through casting its electoral process in a form which permits a private organization (political party) to practice racial discrimination in the election. Constitutional rights would be of little value if they could be thus indirectly denied."

The court said that when primaries become a part of the machinery for choosing state and national officials—as they have in Texas—the same tests for discrimination apply to a primary as to a general election.

"If," the court said, "the state requires a certain electoral procedure, prescribes a general election ballot made up of party nominees so chosen and limits the choice of the electorate in general elections for state officers, practically speaking, to those whose names appear on such a ballot, it endorses, adopts and enforces the discrimination against negroes, practiced by a party entrusted by Texas law with the determination of the qualifications of participants in the primary." 4-4-44

Violates 15th Article

This, the court declared, violates the 15th amendment to the constitution prohibiting a state from abridging a citizen's right to vote because of race, color or previous condition of servitude.

The court acknowledged that the privilege of membership in a political party may be no concern of the state, as the court previously had held.

"But," the opinion added, "when as here, that privilege is also the essential qualification for voting in a primary to select nominees for a general election, the state makes the action of the party the action of the state."

The majority said they were not "unmindful of the desirability of continuity of decisions in constitutional questions" but that when convinced of a former error the court had never felt obliged to follow a precedent.

South Aroused By Court Decree.

By The Associated Press

Southern reaction to the decision holding that negroes may participate in Democratic primary elections ranged today from cautious non-committal to stubborn determination to preserve traditional white control of election machinery. 4-4-44

In several States, including Texas, officials and party leaders withheld comment, pending study of the court's decision.

In Mississippi, however, Chairman Herbert Holmes of the Democratic executive committee declared "we still have a few States' rights left, and one of our rights is to have Democratic primaries and say who shall vote in them. The Supreme Court or no one else can control a Democratic primary in Mississippi."

Georgia's State Democratic committee chairman, J. Lon Duckworth, argued that the Supreme Court's action "is not a decision affecting the Georgia primary," and added "I would say the negroes are not qualified to vote in the Democratic white primary of this State."

Florida Hopeful

Florida's Democratic committee chairman, Tom Conely, declared "we'll certainly resist, if possible, any attempt to have negroes vote in our primaries." He added hope "that the court's decision won't have any effect in Florida."

John Fred Odom, chairman of Louisiana's State Democratic committee, said he was "not entirely surprised," at the ruling, but added it brought "a very serious situation." He said he would comment later. 4-4-44

Gov. Coke R. Stevenson and Atty. Gen. Grover Sellers, of Texas, declined comment, pending study of the decision, and Chairman J. C. Barrett of the Arkansas Democratic committee also said he wished to study the ruling before reaching a conclusion.

In Washington, however, Representative Nat Patton (D), Texas, commented, "I have an abiding faith in the great Democratic hordes of Texas that they will control their primaries, and that negroes will not vote in the white primaries. Let the negroes form their own primaries if they like. I don't think many negroes want to vote in the Texas white primaries. A few hot-heads are stirring this thing up. I think the Southern white man is the best friend the negroes have."

Election Supervisor Silent

Florida's Secretary of State R. A. Gray, who supervises the Florida election machinery, withheld opinion.

South Carolina's party rules stipulate that only a "white Democrat" is eligible for membership. However, one leader who declined to be quoted said Democrats had foreseen "just such an opinion" and in anticipation of it the Legislature (all Democrats) had eliminated from the State election laws all reference to party organizations and left it with each party to determine who should participate in primaries. Available South Carolina Democratic leaders withheld comment.

Russell R. Kramer, chairman of the Tennessee Democratic executive committee foresaw no effect there. "There is nothing in our statutes about voting that pertains to race," he said, "and negroes do vote in Tennessee primaries." 4-4-44

North Carolina does not bar negroes from primary elections, and President Frank P. Graham, of the University of North Carolina, commented that "a gradually increasing number of educationally qualified negroes are voting each year in the primary and general elections."

In Virginia, E. R. Combs, national Democratic committeeman, said the party had "never undertaken to bar negroes from Democratic primaries if they claim to be Democrats."

'Alabama To Hold White Primary'—McCorvey Finds 'Way Out'

4-4-44

Party's Chairman Smiles At Court Race View

By ATTICUS MULLIN

MOBILE, ALA., April 3.—With the wind from the north and the Mobile paper mill, and with the United States Supreme Court decision granting negroes the right to vote in a white primary for Democrats in Texas, a correspondent for The Advertiser talked with Chairman Gessner McCorvey of the Alabama Democratic Executive Committee of Alabama and received balm in the face of the winds blowing over Mobile.

"I have no idea what points were covered in the Supreme Court decision," said Mr. McCorvey, who is one of the great lawyers of Alabama. "I would have to read the decision to determine just how far it goes. But don't you get unduly worried. We are going to maintain white supremacy in Alabama and we are going to conduct a white primary in May and we will find a way to continue our way of allowing the white people of Alabama to vote in their own way—somehow."

The Advertiser correspondent asked Mr. McCorvey whether or not Alabama could not return to the old system in vogue immediately after the convention system was abolished and run a primary in which the candidates paid the primary expenses and not the state. He said that the return to such a system might be possible but that in such event it might be that the state committee itself might have to be named in some other manner if it was to take charge of the primary. 4-4-44

Alabama and other states that intend to remain white might return to a convention system, suggested The Advertiser correspondent. "God forbid," fervently answered Chairman McCorvey. "There will be other ways out."

The decision hit Mobile hard—much harder than the rain and wind storm that flooded the city streets Sunday. But the fact that an Alabama Supreme Court justice, Hugo Black, sustained the decision was the main topic. Just how a man who was charged as a former Ku Kluxer could vote that way was not understood in Mobile, but there are many Catholics in Mobile who have never understood Ku Kluxers anyway. If Justice Black was ever a kluxer he could not be reinstated now.

Sparks Sees Avenue To Preserve Party

Gov. Chauncey Sparks said the South "can adapt itself" to a United States Supreme Court decision that negroes may vote in Texas primaries, if the decision "leaves with the States the right and authority to determine qualifications."

If the decision does not leave such authority to the States, the Alabama Governor declared, then it "is a blow to friendly relations between the races in the South, and bodes ill."

Atlanta, Ga.

Open to Negro 4-4-44

Supreme Court Decision Rules Primary

WASHINGTON, April 3.—(AP)—The supreme court today upset a decision of nine years' standing and ruled that Negroes have the right to vote in Texas Democratic primary elections, prompting Justice Roberts to protest that the tribunal's opinions are getting to be like a railroad ticket good

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man of the State Democratic Executive Committee, also declined comment.

Sparks's statement follows:

"The decision of the court, I understand, permits qualified negro voters to participate in primary elections when conducted at public expense and out of public funds.

"This, by intimation at least, would have no comment pending receipt of a copy of the Supreme Court's opinion. At Mobile, Gessner T. McCorvey, chairman of the State Democratic Executive Committee, also declined comment.

"If it does the South can adapt itself as it will do, in my opinion, to meet the situation.

"If it does not, the decision is a blow to friendly relations between the races in the South, and bodes ill."

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The eight-to-one decision, stating that "the great privilege of choosing his rulers may not be denied a man by the state because of his color," overturned the court's unanimous opinion in 1935 sustaining the exclusion of Negroes from participation in a Texas Democratic primary.

FAR-REACHING DECISION

The decision has far-reaching implications for the south, where success in a primary usually is tantamount to election, but whether it will lead to any great increase immediately in the number of Negro voters is considered doubtful. The decision does not touch upon other barriers existing in various parts of the south, such as poll taxes, educational tests, etc.

Specifically involved in today's litigation was Lonnie E. Smith, a Negro who contended he was denied the right to vote in a 1940 primary by Houston (Texas) election judges. There are an estimated 571,000 Negroes of voting age in Texas.

Of the present members of the court, only Chief Justice Stone and Justice Roberts were on the bench at the time of the earlier decision. 4-4-44

ROBERTS SOLE DISSENTER

Justice Roberts, sole dissenter in today's decision, protested that the court's present policy "indicates an intolerance" for the conscientious and deliberate opinions of former justices and "involves an assumption that knowledge and wisdom reside in us which was denied to our predecessors."

Amplifying his complaint that today's ruling tends "to bring adjudications of this tribunal into the same class as a restricted railroad ticket, good for this day and train only," Roberts said:

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The court's earlier decision was based on the ground that Negroes were excluded from the primary because a Democratic party convention had refused them party membership, and that this action by the party did not represent an action by the state.

"PARTY A STATE AGENCY"

Justice Reed's majority opinion today, however, said the Democratic party in Texas is required to follow state legislative procedure in selecting party nominees in primary elections and thus the party becomes a state agency.

Asserting that the federal constitution gives citizens the right to choose elected officials without restriction by any state because of race, Justice Reed declared:

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The court said that when primaries become a part of the machinery for choosing state and national officials—as they have in Texas—the same tests for discrimination apply to a primary as to a general election.

"If," the court said, "the state requires a certain electoral procedure, prescribes a general election ballot made up of party nominees so chosen and limits the choice of the electorate in general elections for state officers, practically speaking, to those whose names appear on such a ballot, it indorses, adopts and enforces the discrimination against Negroes practiced by a party entrusted by Texas law with the determination of the qualifications of participants in the primary."

"VIOLATES AMENDMENT"

This, the court declared, violates the fifteenth amendment to the constitution prohibiting a state from abridging a citizen's right to vote because of race, color or previous condition of servitude.

The court acknowledged that the privilege of membership in a political party may be no concern of the state, as the court previously had held. 4-4-44

"But," the opinion added, "when, as here, that privilege is also the essential qualification for voting in a primary to select nominees for a general election, the state makes the action of the party the action of the state."

The majority said they were not "unmindful of the desirability of continuity of decision in constitutional questions" but that when convinced of a former error the court had never felt obliged to follow precedent.

High Court Gives Negroes Vote in Texas Primary

Post-Washington, D.C. 4-4-44

8-to-1 Decision Reverses Opinion Issued 9 Years Ago; Roberts Dissents

By Mary Spargo

The Supreme Court, in a decision certain to have sweeping political repercussions, yesterday ruled that Negroes have the right to vote in Texas Democratic primaries, completely reversing a unanimous opinion the court handed down nine years ago on the same issue.

The eight-to-one decision, written by Associate Justice Stanley F. Reed, held that the right to vote is secured by the Constitution.

"Under our Constitution, the great privilege of choosing his rulers may not be denied a man by the State because of his color," the court asserted.

Roberts Dissents

Associate Justice Owen J. Roberts, one of the two members of the Supreme Court who was on the bench when the completely opposite decision was handed down in 1935, vigorously dissented from yesterday's decision.

He protested that Supreme Court decisions are getting "into the same class as a restricted railroad ticket, good for this day and train only."

Meanwhile the National Association for the Advancement of Colored People immediately called on the Justice Department to take action in Texas, Arkansas and South Carolina against any officials interfering with the right of Negroes to vote in primary elections. 4-4-44

A storm of protest appeared to be gathering strength among political figures in the South, with suggestions of using educational qualifications to bar Negroes regardless of yesterday's ruling of the court.

The question was raised whether or not certain elected officials in the South might be holding office illegally.

Although the full effect of the court's decision is not expected to be felt this year, there were reports on Capitol Hill that it might directly affect a number of Senators and Representatives from Southern districts where the CIO Political Action Committee has been active.

It was reported, for example, that the CIO committee, recently attacked as Communist-led by Representative Martin Dies (D.) of the Second Congressional District in Texas, has assisted 30,000 Negroes in Dies' district to register and qualify to vote. 4-4-44

If the report is correct, it is estimated that the Supreme Court's decision will add to the voting strength of Dies' district 30,000 voters, nearly one-third the present total, allied with an organization which has been fighting him.

The Texas primary elections are held July 22. Primaries in Arkansas and South Carolina are respectively August 8 and August 29.

Mississippi and Louisiana, also mentioned as being possibly affected, hold their primaries on August 8 and September 12.

Court Reaffirms Negro Primary Decision

PM-New York, N.Y. 5-9-44

By United Press

WASHINGTON, May 9.—The Supreme Court is standing firm on its Apr. 3 decision that Negroes have a constitutional right to vote in State primaries, refusing to reconsider the ruling which had prompted Southern Congressmen to assail the tribunal.

It thus closed the door, in its decision yesterday, to any judicial action aimed at barring Negro participation in the so-called Southern "White" primaries.

Reconsideration had been requested by Texas, the State involved in the original decision, and the two Houston election judges who were defendants in a suit brought by a Negro. Texas Attorney General Grover Sellers, who sought permission to reargue the case, contended the court had erred in ruling that the Federal Constitution prevents the Texas Democratic party from conducting a "White" primary. He and the election judges—S. E. Allwright and James E. Liuzza—argued that the Democratic party in Texas was a "voluntary association," not an instrument of the State or "any governmental agency."

While the Apr. 3 ruling specifically affected Texas, it also applies to all other States having similar primary laws. Southern Congressmen have said that ways will be found to bar Negroes from primaries, and some suggested a return to the state convention system.

Barring such action, the court ruling will be tested in Texas July 22, when that State holds primaries for Congressional, State and County offices. 5-9-44

The court, announcing it will hand down decisions on each of the next three Mondays and then adjourn its 1943-44 term on May 29, agreed to review lower court decisions in three other cases of general interest:

¶ A Southern New York Federal District Court decision in the Government's anti-trust suit against the Associated Press, holding that the AP must modify its by-laws with respect to admission of new members. The news agency contended in an appeal filed last month that the New York court's judgment holding it guilty of violating anti-trust laws would subject it to the supervision of the Justice Dept. and the Federal courts in such a manner as to be "wholly incompatible with freedom of the press." The Government subsequently filed a cross-appeal for a stronger injunction against the AP. The high court noted "probable jurisdiction."

¶ An appeal by the Western Union Telegraph Co. from a lower court decision enjoining the firm from employing messengers under 16 years of age on grounds the company is covered by child labor provisions of the Wage-Hour Law.

¶ The legal efforts of Mitsuye Endo, 22, American-born Japanese woman, to obtain release from a War Relocation Authority Center at Camp Newell, Calif. She contended that WRA regulations were depriving her of her rights as an American even though she has been classified as a "loyal" U. S. citizen.

The Negro and the Vote

Post-Birmingham, Ala.

The Supreme Court, reversing by 8 to 1 a decision of nine years ago, now holds that the Democratic Party of Texas cannot bar Negroes, if otherwise qualified, from voting in primaries. Which means that Negroes, "if otherwise qualified" cannot be barred from voting in Alabama primaries. 4-4-44

The decision will not make the problem of friendly race relations in the South easier for either side but it need not destroy the basis of understanding which has been built up by trial and error through the years.

There are other ways of preserving Southern tradition without violating any provision of the Constitution. They will be found and they can be put into effect without detriment to the Negro.

The problem presents a challenge to thoughtful leaders of both races. It must be faced squarely. It must be handled patiently and sympathetically if we are to avoid the trouble which is being brewed for us by irresponsible whites and blacks alike.

Supreme Court Grants Review Of Two Cases

News-Phenix, Ala. 5-30-44

WASHINGTON—(AP)—The U. S. Supreme Court Monday granted review of a case instituted by a Negro locomotive fireman whose complaint of discrimination was dismissed by the Alabama Supreme Court.

Bester William Steele, fireman on the Louisville & Nashville Railroad, contended Negro firemen were excluded from the Brotherhood of Locomotive Firemen and Enginemen and said the brotherhood had been "persistently hostile to the Negro firemen and has sought to drive them out of (railroad) service in order to create a monopoly of employment or the best jobs for its own members."

Steele complained the union and the railroad has entered into an agreement adversely affecting seniority rights of Negro firemen and insisted that the brotherhood, by accepting the designation as representative of the entire craft or class of firemen under the railway labor act, was under duty to represent him impartially.

Dismissing his complaint, the Alabama Supreme Court held that the railroad has a right to enter a contract with a majority of employes in a specified classification, even though the contract may affect "detrimentally" a Negro minority. The court also decided had made no effort to control the matter of seniority rights.

The U. S. Supreme Court also granted review of a case in which

Tom Tunstall, fireman on the Northern Southern, protested he was forced out of his job and replaced by a white man. The Eastern Virginia Federal District Court previously dismissed Tunstall's complaint.

14-1944

U. S. Supreme Court

Texas Negroes Win Right to Vote in Primaries

PM New York, N.Y.

Politicians Say South Will Defy Supreme Court

4-4-44

This decision of the U. S. Supreme Court upholding the right of Negroes to vote in state primary elections demonstrates vividly that the Bill of Rights is a living thing, not a musty, academic dead-letter. The Court based its finding on the 15th Amendment to the Constitution, an 1870 addition to the Bill of Rights, which provides that "the right of citizens of the United States to vote shall not be denied or abridged by the United States or by an State, on account of race, color, or previous condition of servitude." Also involved were the 13th Amendment, which abolished slavery, and the 14th Amendment, which provided universal suffrage.

By NATHAN ROBERTSON
PM's Bureau

4-4-44

WASHINGTON, Apr. 4.—Millions of Southern Negroes, were legally enfranchised today by a Supreme Court decision abolishing the white primary in Texas. (*See Albert Deutsch's column on page* 11.)

From the legal standpoint, the court's decision was the biggest victory for democracy in many years. It was broad enough to wipe out the white primaries in South Carolina, Arkansas, Mississippi and Louisiana, and perhaps restore an effective vote for Negroes in other Southern states.

Practically, the effect of the decision will depend upon how many of the Southern states are able to find some other way, legally or illegally, to block the Negroes from voting. Comments of Southern politicians indicated they would find a way to get around the court's decision.

'Abiding Faith'

Rep. Nat Patton (D., Tex.), for instance, said he had "an abiding faith that the Negroes aren't going to vote in the white man's Democratic primary." He said "Our Democratic people in Texas will find some way to work out a Democratic primary for white folks." Rep. Lindley Beckworth (D., Tex.), also said that "The people of Texas will suitably take care of the situation for Texas." 4-4-44

Democratic Party officials in the South shouted similar defiance of the Supreme Court. J. Lon Duckworth, chairman of the Georgia State Democratic Executive Committee, said the decision applied only to Texas and that Negroes were not qualified to vote in the Georgia primary.

But the Supreme Court's decision armed Federal officials with authority to protect the Negroes' right to vote. The National Assn. for the Advancement of Colored People immediately sent a letter to Attorney General Francis Biddle, demanding Federal prosecution of anyone preventing the Negroes from voting. The letter said:

"Now that there can be no doubt that such exclusion is a Federal crime, we urge you to issue definite instructions to all U. S. attorneys, pointing out to them the effect of these decisions and further instructing them to take definitive action in each instance of the refusal to permit qualified Negro electors to vote in primary elections in states coming within the purview of the two decisions." 4-4-44

Some Texans believed, despite the statements by Patton and Beckworth, that under the Supreme Court decision Texas would find it difficult to bar Negroes from voting if they have paid their poll taxes. It is estimated that there are more than 500,000 potential Negro votes in the state.

CIO Drive

The decision may spell trouble particularly for Dies, as the CIO has been campaigning in his district to get poll taxes paid. Negro leaders said 80,000 Negroes had paid their poll taxes and registered in the CIO drive to beat Dies. This is a third of the total registered vote in the district and amounts to more than half the 52,527 votes cast in the 1942 primary in the Dies district.

The Supreme Court's decision climaxed years of litigation over the Texas white primary. In 1924 the court voided a Texas law limiting the primary to whites. Then the state gave the party the right to run the primary and decide who should participate. When the State Executive Committee of the party decided to confine the primary to whites, the court again overruled the exclusion of Negroes. But in 1935, at the height of the power of the old conservative Supreme Court, it unanimously upheld a ban against Negroes voted by the state convention of the Democratic Party in Texas.

In this case, known as Grovey vs. Townsend, the court held in effect that the Democratic Party in Texas was a private club, and that to deny a vote in the primary was merely a refusal of party membership with which "the state need have no concern."

8-1 Ruling 4-4-44

This doctrine was specifically overruled by the court in its 8-1 decision yesterday, with only Justice Owen J. Roberts dissenting. Reviewing its former decision, the court, in an opinion written by Justice Stanley Reed, said:

"The United States is a constitutional democracy. Its organic law grants to all citizens a right to participate in the choice of elected officials without restriction by any state because of race. This grant to the people of the opportunity for choice is not to be nullified by a state through casting its electoral process in a form which permits a private organization to practice racial discrimination in the election. Constitutional rights would be of little value if they could be thus indirectly denied."

The court said that the primary was conducted by the party under state law, that the party, in conducting the primary, was acting as an agency for the state, and was thus subject to the same restrictions on discrimination as the state.

Justice Roberts was bitter in his dissent. Pointing out that the original decision had been unanimous, he said the court's policy of overruling previous decisions "indicates an intolerance for what those who have composed this court in the past have conscientiously and deliberately concluded, and involved an assumption that knowledge and wisdom reside in us which was denied to our predecessors."

'Breeder of Doubt'

Without saying how he stood on the legal issue, Roberts added:

"The reason for my concern is that the instant decision, overruling that announced about nine years ago, tends to bring adjudications of this tribunal into the same class as a restricted railroad ticket, good for this day and train only. I have no assurance, in view of current decisions, that the opinion announced today may not shortly be repudiated and overruled by Justices who deem they have new light on the subject."

4-4-44

Roberts expressed regret that "in an era marked by doubt and confusion," the court "should now itself become the breeder of fresh doubt and confusion in the public mind as to the stability of our institutions."

Tidal Wave

Daily Worker, N.Y.

THE tidal wave of democracy in the United States rises to unparalleled heights in the Supreme Court decision invalidating Texas' anti-Negro primaries. Breaking upon the rocky and stubborn shores of Southern reaction, it strikes at decades of political stinkpots and cesspools. It helps cleanse the air of the foulness which too many decent people had come to accept as a normal condition. It thus benefits not only the Negro and not only the South; it benefits us all, Negro and white, North and South. 4-5-44

The present opinion, as contrasted with that of 1935, is possible now because this war of liberation has brought into play on the side of progress such forces as nothing else could. The great mass of the Negro people have joined their fellow Americans in unified national support of this struggle against bestial fascism. It is true that some of the Negro people, on the basis of their experience, had—and still have—doubts. But it is precisely such an act as this opinion that will help them overcome their doubts.

The reason the majority of the Negro people—as is true of the majority of Americans in general—long since went all out for this war is that they recognized it as theirs. They realized that a people's war of liberation is that kind of war not because all the people who should be in it completely, are in it—and here they think of Africa and India and Burma and themselves. They know it is a people's war because they know that the people will lose everything if they lose this war.

Another reason for the opinion now is the aggressive bloc against the white supremacy changed basic relationship coming about—gangs in Texas, Mississippi, Louisiana, even in the South—primarily through the Georgia," South Carolina, Florida and trade union movement. It is a change that has convinced Bilbo, Rankin, Dies and Cotton Ed Smith that even the South's noisily proclaimed solidity is really as firm and solid as water.

The Roosevelt administration's progressive policies during the past decade have had a significant influence towards making this opinion possible.

The people of Tennessee, Kentucky, North Carolina, Virginia, West Virginia and Oklahoma, having no "white" primaries, do not oppose the fight against it in other states and are, in effect, therefore, a relatively pro-

4-5-44

Most Americans agree that there is need for what Justice Roberts desires. It is proved by the fact that their own "steadfastness of thought and purpose" has been crystalized in the Supreme Court opinion. That opinion is theirs. They see it as forerunner of still another tidal wave. They see the next tidal wave as washing away the rottenness of the poll tax system. They are already preparing to set that wave in motion. 4-5-44

The lone dissenting opinion, in doubt and They know that if the people's active will because "the can destroy the "white" primaries, it can destroy the "white" primary's twin evil, the thought court, because poll tax. Not only do the people know it, but their misrepresentatives in the Congress

4-5-44

Justice Owen J. Roberts, the lone dissenter, cries bitterly that the majority opinion, is not

Freedoms.

know it, and that is why they utter their anguished cries and shout dire threats.

These men will try to carry out their threats. We must watch them and counter every move. The fact that they cry and threaten proves their ultimate impotence.

Open Primaries

Post - Washington, D.C.

The Supreme Court's decision yesterday that the Democratic Party in Texas cannot bar Negroes from its primaries is a bold stroke for democracy. It strikes down a form of discrimination that is a reproach to any freedom-loving people and is particularly anachronistic in a country fighting a world-wide war against tyranny and oppression. We regret with Justice Roberts the tendency of the court to discard valid precedents without good reason, but in this case we believe that the court was fully justified in plowing new ground in an effort to bring our political institutions closer to the spirit and letter of the Constitution. 4-4-44

Actually the court has not taken a long leap from the position it occupied before, although it did specifically overrule a decision made in 1935. Some years ago it found State laws barring Negroes from voting in primary elections to be repugnant to the post-Civil War amendments to the Constitution. Texas and various other Southern States sought to avoid the consequences of these decisions by assigning to party officials the controlling voice as to who should vote in the primaries. So the party, as Justice Reed pointed out in the majority opinion, took on itself the character of a State agency performing duties imposed on it by statute.

"When primaries become a part of the machinery for choosing officials, as they have here," the court said, "the same tests to determine the character of discrimination or abridgement should be applied to the primary as are applied to the general election." That reasoning seems to apply with particular effect to States such as Texas where a victory in the primaries is tantamount to election. Exclusion from the primaries there really means the denial of the right to vote in the election wherein public officials are actually chosen. Whether that discrimination is brought about by the State itself or a political party exercising powers conferred on it by State law is a matter of very little significance.

The court reminds us that the language of the Fifteenth Amendment is very broad. "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color or previous condition of servitude." Surely that right to vote, wherever it exists, should be protected in regard to primary elections as well as in the final inter-party contests! 4-4-44

It would be naive to assume that this decision alone will suddenly assure votes to the Negro citizens of Texas and other Southern States. Educational tests, poll taxes and various forms of intimidation will still be available as instruments of political oppression where the disposition of local communities to use them prevails. But this opinion does indicate that we are making progress toward elimination of the taint of racial discrimination from our political system. And that is progress of the greatest significance to the future of democracy.

Negro And Primary

News-Birmingham, Ala.

The basic issue in the Supreme Court's 8-to-1 decision holding that qualified Negroes have the right to vote in Texas Democratic primary elections has to do, it seems to us, with whether the party-and-primary system is the instrument of the state and whether, as conducted, it operates as a dominant or exclusive means for the effective exercise of suffrage. 4-5-44

The court holds, in the Texas case, that the state is in practical effect operating through the party and primary and that in so acting it contravenes the 15th amendment in barring Negroes from participating in the primary.

If a group of a few citizens were to band themselves together for political action and among themselves were to vote on how they would act as a unit, such action obviously would not be state action or bear on state responsibility at all. In such a case, there would, of course, be no question whether the right to vote "has been denied or abridged by the United States or any state on account of race, color or previous condition of servitude."

But in the Texas case, the court held: "If the state requires a certain electoral procedure, prescribes a general election ballot made up of party nominees so chosen and limits the choice of the electorate in general elections for state officers, practically speaking, to those whose names appear on such a ballot, it endorses, adopts and enforces the discrimination against Negroes, practiced by a party entrusted by Texas law with the determination of the qualifications of participants in the primary."

* * *

It is apparent that here, as in so many things, we have a question of degree—of the degree to which the party-and-primary election governs the opportunity for effective suffrage.

Obviously, different conditions respecting that question prevail in different states. For example, a South Carolina leader, commenting on the court's decision, said such an opinion had been anticipated and the state's Legislature had eliminated from state election laws all reference to party organizations and left it to each party to determine who should participate in primaries. The theory of such action, we take it, is to remove the state from responsibility for what the party does.

That there are many sincere opinions on this matter is conspicuously exemplified by the fact that in 1935 the Supreme Court held unanimously that Negroes could be excluded from a Texas Democratic primary.

* * *

In Justice Roberts' dissent, he emphasized what he considers the ill effects of such a sharp reversal by the court. Of course, if the court should show an extreme degree of inconsistency through a great frequency of reversals, its prestige and functioning would suffer, as Justice Roberts contends. On the other hand, if the court never even considered reversing itself, that also would surely be an undesirable tradition. Here once more we have a question of degree. The court has changed greatly since 1935. That honest and able men should differ on this intricate primary question is certainly not surprising. Nor that an honest change of view should take place. 4-5-44

* * *

It should be borne in mind that this decision does not bear on the state's fixing of qualifications for voting. That stands, of course, and is an aspect of the situation more widely effective than party primary provisions. That is to say, even if party barring of Negroes from primaries generally were ended, still the state's qualifications for voting would prevail and dominate election practices.

It is too early to form any broad conclusion as to the general effect of this decision, but we venture the opinion that here in Alabama the situation will be changed little, if any.

SUPREME COURT UPSETS FLORIDA WORK FRAUD ACT

Tribune-Chicago
4-11-44

Held Violation of 13th Amendment.

Washington, D. C., April 10 (AP).—The Supreme court of the United States today ruled unconstitutional a Florida law making it criminal for a person to obtain money by a fraudulent promise to perform labor.

In a 7 to 2 opinion delivered by Justice Jackson, the court declared the law violates the 13th amendment [prohibiting involuntary servitude] and the federal anti-peonage statute.

The case involved Emanuel Pollock of Brevard county, Fla., whom the court described as an illiterate Negro. Pollock pleaded guilty to obtaining $5 from J. V. D'Albora with a promise to work which he failed to carry out.

Forced to Work Off Debt.

He was fined $20 for each dollar of the five, and in default of payment was sentenced to 60 days in jail to work out the $5 debt at the rate of 9 cents a day. Pollock later sought release on the contention the Florida statute was unconstitutional. The Brevard county Circuit court upheld his contention, but its decision was reversed by the Florida Supreme court.

The United States Supreme court's majority opinion said the unquestionable aim of the 13th amendment and the anti-peonage act "was not merely to end slavery but to maintain a system of completely free and voluntary labor."

The court said it had several times overruled laws similar to the Florida statute, but had always established the state's right to punish fraud. 4-11-44

Must Observe Constitution.

"Deceit is not put beyond the power of the state because the cheat is a laborer nor because the device for swindling is an agreement to labor," the opinion added. "But when the state undertakes to deal with this specialized form of fraud, it must respect the constutional and statutory command that it may not make failure to labor in discharge of a debt any part of a crime. It may not directly or indirectly command involuntary servitude, even if it was voluntarily contracted for."

The majority opinion concluded: "We impute to the legislature no intention to oppress, but we are compelled to hold that the Florida act . . . by virture of the 13th [anti-slavery] amendment and the anti-peonage act of the United States is null and void."

Negro Under Sentence Of Death To Get New Trial In Mississippi

News-Birmingham, Ala
5-9-44

JACKSON, Miss. — (AP) — The State Supreme Court Monday reversed and remanded for a new trial the case of Johnnie Richardson, Negro, Pascagoula, who was convicted and sentenced to death in the Jackson County Circuit Court on a statutory charge.

Richardson, a cook in a Pascagoula restaurant, was charged with the attack of a white waitress.

The opinion, handed down by Justice Griffith, said: "A critical and cautious scrutiny of the record of the testimony discloses that in not less than four material, and in face decisive, particulars the testimony of the prosecutrix is so highly improbable as to be scarcely believable, except of course, to one who would simply prefer to believe it. A majority of the court are of the opinion, in this respect, that without the so-called confession of the appelant he would be entitled to a peremptory charge.

* * *

"IT IS DESIRED BY some members of the court that mention be made of the fact that there hovers in the background of this record the broad issue of due process. The record does not disclose whether the attorney who appeared for the defendant was employed or whether appointed by the court; but candor compels us to admit that he made only a token defense."

IN ANOTHER OPINION the court affirmed the sentence of life imprisonment given Aaron Heafner, Coffeeville pool hall operator, by the Yalobusha County Circuit Court, also ruled that a new date for the execution of Eddie Simmons, convicted of slaying Pvt. Jimmy Deskin, Camp McCain and Tulia, Texas. Heafner and Alfred Shaw, Yalobusha County election commissioner, were indicted for the murder of Tulia, Texas, soldier whose body was found on the highway near Coffeeville last June 17. Heafner was tried alone and sentenced to life in prison. Shaw's trial will be held at a later date.

14-1944

Viriginia

Bus Case Ruling Is Historic

Journal + Guide - Norfolk, Va

PUTTING aside for now the fundamental question of discrimination and jim-crowism as an actual denial of equal citizenship, the decision of the Virginia State Supreme Court in the bus segregation case of Mrs. Sarah Morris Davis, a Norfolk teacher, is both heartening and broad-visioned. 7-8-44

It is heartening because it demonstrates a growing liberalism in our southern courts. It foreshadows a day when it will not be almost invariably necessary for a Negro to go all the way to the U. S. Supreme Court to get a reaffirmation of civil, political, educational, and economic rights.

It is broad-visioned because it recognizes and emphasizes a fact which has too long been ignored or obscured—that, in practice, the enforcement of segregation laws has been a one-way enforcement, imposing upon the Negro solely, the inconveniences, the hardships, and the proscriptions of jim-crowism. This fact the highest Virginia court not only recognized, but it clearly and emphatically reminds those charged with enforcement that the duty is laid upon them of two-way, equal administration of the laws of segregation. 7-8-44

An important thing about this is —so long as only Negroes felt the harshness of jim-crowism, sentiment for doing away with it, even in its least justifiable manifestations, was unlikely to develop among the majority group. War-time travel experiences demonstrate that once the impact of jim-crowism is felt also by white people, they began to question the sense in segregation laws that are not being enforced, because they couldn't be; or, if they were, their effects were utterly distasteful to them. 7-8-44

Advocacy of the repeal of the segregation laws for public carriers in Virginia, by the Richmond *Times-Dispatch* some months ago was an expression of the experiences and consequent new thinking on the whole question by the majority group.

The reaction of the state's daily press is interesting and encouraging, although they waived discussion of the basic question of segregation as such. Typical are our local dailies. The *Ledger-Dispatch* commented, in part: " . . . the equity of this decision, if its meaning and importance are sufficiently emphasized, will be recognized and accepted by most people, and in the long run its effect will be healthy." The *Virginian-Pilot* took an equally sane approving stand editorially. 7-8-44

That there is an awakening civic consciousness in Norfolk and that Norfolkians are willing to pioneer in rectifying disabilities imposed upon them is demonstrated by the leadership provided here by the plaintiffs in this case, in the teacher-salary cases, and in railway employment cases, one of which is to be heard soon by the U. S. Supreme Court. That way lies first-class citizenship.